

From: Munoz, Charles
Location: 4308 WJC-N
Importance: Normal
Subject: Ethics Training with Kaitlyn Shimmin, Special Assistant to OCIR; Kevin Chmielewski, Director of Scheduling and Advance; Albert Kelly, Senior Advisor to the Administrator; Ken Wagner
Start Date/Time: Wed 4/26/2017 2:30:00 PM
End Date/Time: Wed 4/26/2017 4:00:00 PM

From: Fugh, Justina
Location: 4308 WJC-N
Importance: Normal
Subject: Accepted: Ethics Training with Kaitlyn Shimmin, Special Assistant to OCIR; Kevin Chmielewski, Director of Scheduling and Advance; Albert Kelly, Senior Advisor to the Administrator; Ken Wagner
Start Date/Time: Wed 4/26/2017 2:30:00 PM
End Date/Time: Wed 4/26/2017 4:00:00 PM

To: Fugh, Justina[Fugh.Justina@epa.gov]
From: Kelly, Albert
Sent: Thur 6/1/2017 2:56:06 PM
Subject: RE: just to confirm ...

Thank you

Albert Kelly

Senior Advisor to the Administrator

1200 Pennsylvania Avenue, NW

Washington, DC 20460

202 306 8830

From: Fugh, Justina
Sent: Thursday, June 1, 2017 10:54 AM
To: Kelly, Albert <kelly.albert@epa.gov>
Subject: just to confirm ...

Hi,

There are two different reporting periods for that information, believe it or not. In Part 1 (positions outside of federal government), the reporting period is the previous calendar up to the date of filing (so 1/1/16 to present). But in Part 4 (compensation of more than \$5000), the reporting period is the preceding TWO calendar years up to the date of filing (so 1/1/15 to present).

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the
zip code) | phone 202-564-1786 | fax 202-564-1772

From: Kelly, Albert
Sent: Thursday, June 01, 2017 10:46 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject:

Disregard previous request. I figured it out

Albert Kelly

Senior Advisor to the Administrator

1200 Pennsylvania Avenue, NW

Washington, DC 20460

202 306 8830

To: Kelly, Albert[kelly.albert@epa.gov]; Fugh, Justina[Fugh.Justina@epa.gov]
From: Fort, Daniel
Sent: Mon 7/10/2017 2:53:17 PM
Subject: RE: reporting

Here's the reporting periods for the form.

From: Kelly, Albert
Sent: Sunday, July 09, 2017 5:24 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>; Fort, Daniel <Fort.Daniel@epa.gov>
Subject: reporting

Hello Justina and Dan, I am completing the Financial Disclosure form 278. I have listed as one position I have is

Ex. 6 - Personal Privacy

Do I need to list

Ex. 6 - Personal Privacy

Albert Kelly

Senior Advisor to the Administrator

1200 Pennsylvania Avenue, NW

Washington, DC 20460

202 306 8830

To: Fugh, Justina[Fugh.Justina@epa.gov]
From: Kelly, Albert
Sent: Thur 6/1/2017 2:39:53 PM

Hello, I am trying to get my Integrity in Government paperwork done. What is my reporting period as to prior employment? I do not see it in any instructions

Albert Kelly

Senior Advisor to the Administrator

1200 Pennsylvania Avenue, NW

Washington, DC 20460

202 306 8830

To: Kelly, Albert[kelly.albert@epa.gov]; Fugh, Justina[Fugh.Justina@epa.gov]
From: Fort, Daniel
Sent: Mon 7/10/2017 2:40:09 PM
Subject: RE: question

What you have here is, in essence, what looks like **Ex. 6 - Personal Privacy** For information on how to report this, see [this guidance from the Office of Government Ethics.](#) **Ex. 6 - Personal Privacy**

Ex. 6 - Personal Privacy

Ex. 6 - Personal Privacy

From: Kelly, Albert
Sent: Sunday, July 09, 2017 5:28 PM
To: Fort, Daniel <Fort.Daniel@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>
Subject: question

I received **Ex. 6 - Personal Privacy**

Ex. 6 - Personal Privacy I will receive **Ex. 6 - Personal Privacy**

Ex. 6 - Personal Privacy How should I report?

Albert Kelly

Senior Advisor to the Administrator

1200 Pennsylvania Avenue, NW

Washington, DC 20460

202 306 8830

To: Fugh, Justina[Fugh.Justina@epa.gov]
Cc: Falvo, Nicholas[falvo.nicholas@epa.gov]
From: Kelly, Albert
Sent: Wed 8/2/2017 4:45:03 PM
Subject: financial disclosure

Hello Ms. Fugh, I will be submitting my financial disclosure by close of business today. I think I have some duplications but hopefully have covered everything. I wanted to give you a couple points that I did not find a place for or I could not find a way to correct.

• [REDACTED] **Ex. 6 - Personal Privacy** I received some corrected information later.

• [REDACTED] **Ex. 6 - Personal Privacy** as I do not report any and am not to my knowledge provided with any

• [REDACTED] The **Ex. 6 - Personal Privacy**
Ex. 6 - Personal Privacy

• [REDACTED] **Ex. 6 - Personal Privacy** It appears confusing but that is the arrangement

• [REDACTED] On **Ex. 6 - Personal Privacy**
Ex. 6 - Personal Privacy These differ in amounts but are properly reported

• [REDACTED] On the **Ex. 6 - Personal Privacy**
Ex. 6 - Personal Privacy

• [REDACTED] On the **Ex. 6 - Personal Privacy**
Ex. 6 - Personal Privacy

• [REDACTED] The **Ex. 6 - Personal Privacy**

• [REDACTED] The **Ex. 6 - Personal Privacy**
Ex. 6 - Personal Privacy

• [REDACTED] Though it did not ask for the disclosure that I saw, **Ex. 6 - Personal Privacy**
Ex. 6 - Personal Privacy

• [REDACTED] Also, I have a number of **Ex. 6 - Personal Privacy**
Ex. 6 - Personal Privacy
[REDACTED] I did not see a place for that either.

• On the **Ex. 6 - Personal Privacy** so the drop down box would not work. I put in specific figures.

Ms. Fugh, I hope you find my submission satisfactory. If you need additional information please advise. Thank you for all of your advice on this matter.

Albert Kelly

Senior Advisor to the Administrator

1200 Pennsylvania Avenue, NW

Washington, DC 20460

202 306 8830

To: Kelly, Albert[kelly.albert@epa.gov]
Cc: Ford, Hayley[ford.hayley@epa.gov]
From: Fugh, Justina
Sent: Wed 5/24/2017 5:19:22 PM
Subject: REMINDER: You need to sign the Trump ethics pledge
[P45 Executive Order.pdf](#)
[P45 Ethics Pledge blank.pdf](#)

Hi there,

On January 28, 2017, President Donald J. Trump issued an Executive Order on Ethics Commitments for all political appointees in his administration that contains additional restrictions during and after your federal service. Now that you have been converted to a Non Career SES position, you are required to sign this pledge, which I have attached together with the executive order itself. Please print out the pledge and then sign and date it, then return to me, either in hard copy or by pdf. I would appreciate getting this signed pledge back by the end of this week.

The significant points of the Executive Order are as follows:

If you were a federally registered lobbyist in the previous 2 years --

- For the next 2 years, you will not participate in any particular matter on which you lobbied within the previous 2 years and you will not participate in the specific issue area in which that particular matter falls.

While you are a federal employee --

- You will not accept any gifts from a registered lobbyist, including attendance at a widely attended gathering. There are a few exceptions, so ask an ethics official for guidance *in advance*.
- For 2 years from the date of your appointment, you will not participate in any particular matter involving specific parties that is directly and substantially related to your former employer or former client(s), including regulations and contracts; and
- Any hiring or other employment decisions you make will be based on the candidate's qualifications, competence and experience.

After you leave federal service --

- For 5 years, you will not engage in any lobbying activities with respect to the agency in which you were appointed to serve;
- For the remainder of the Administration, you will not engage in lobbying activities with respect to any covered executive branch official or non-career SES employee; and
- For the rest of your life, you will not engage in any activity on behalf of a foreign government or foreign political party as their “agent” requiring registration under the Foreign Agents Registration Act of 1938 and defined at 22 U.S.C. § 611(c) (as those terms were defined as of 1/20/17).

It's important to know that the post employment lobbying restrictions are broad and extend beyond being a registered lobbyist. For the purposes of the pledge, *lobbying activities* means any oral or written communication to a covered executive branch official or non-career Senior Executive Service appointee, as well as any efforts that are intended, at the time of performance, to support a covered lobbying contact to such person.

Finally, you agree that the terms of the ethics pledge are binding upon you.

Thanks in advance for your attention to this important matter.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772



ETHICS PLEDGE

As a condition, and in consideration, of my employment in the United States Government in an appointee position invested with the public trust, I commit myself to the following obligations, which I understand are binding on me and are enforceable under law:

1. I will not, within 5 years after the termination of my employment as an appointee in any executive agency in which I am appointed to serve, engage in lobbying activities with respect to that agency.
2. If, upon my departure from the Government, I am covered by the post-employment restrictions on communicating with employees of my former executive agency set forth in section 207(c) of title 18, United States Code, I agree that I will abide by those restrictions.
3. In addition to abiding by the limitations of paragraphs 1 and 2, I also agree, upon leaving Government service, not to engage in lobbying activities with respect to any covered executive branch official or non-career Senior Executive Service appointee for the remainder of the Administration.
4. I will not, at any time after the termination of my employment in the United States Government, engage in any activity on behalf of any foreign government or foreign political party which, were it undertaken on January 20, 2017, would require me to register under the Foreign Agents Registration Act of 1938, as amended.
5. I will not accept gifts from registered lobbyists or lobbying organizations for the duration of my service as an appointee.
6. I will not for a period of 2 years from the date of my appointment participate in any particular matter involving specific parties that is directly and substantially related to my former employer or former clients, including regulations and contracts.
7. If I was a registered lobbyist within the 2 years before the date of my appointment, in addition to abiding by the limitations of paragraph 6, I will not for a period of 2 years after the date of my appointment participate in any particular matter on which I lobbied within the 2 years before the date of my appointment or participate in the specific issue area in which that particular matter falls.
8. I agree that any hiring or other employment decisions I make will be based on the candidate's qualifications, competence, and experience.
9. I acknowledge that the Executive Order entitled "Ethics Commitments by Executive Branch Appointees," issued by the President on January 28, 2017, which I have read before signing this document, defines certain terms applicable to the foregoing obligations and sets forth the methods for enforcing them. I expressly accept the provisions of that Executive Order as a part of this agreement and as binding on me. I understand that the obligations of this pledge are in addition to any statutory or other legal restrictions applicable to me by virtue of Government service.

Albert P. Kelly
Signature

5/26, 2017
Date

KELLY, ALBERT C.
Print or type your full name (last, first, middle)

To: Albert 'Kell' Kelly [Ex. 6 - Personal Privacy]
Cc: Fort, Daniel[Fort.Daniel@epa.gov]; Duross, Jeanne[Duross.Jeanne@epa.gov]
From: Fugh, Justina
Sent: Sat 3/25/2017 1:05:48 AM
Subject: RE: Bank Chairman discussion

Hi there,

What a lovely conversation we had earlier this week! Allow me to reconfirm our discussion, copying Dan Fort and Jeanne Duross so that they know as well. I did mention to them briefly that we had talked, but since I'll be on travel much of next week, I won't be able to follow up with them in case there are further developments.

BACKGROUND: You have been invited by Administrator Pruitt to join him as he leads EPA. Although we are not yet sure what role you will serve, we can still provide you with guidance about possible ethics implications given your current positions and assets. What I can't do right now is to provide advice about the implications of the Trump Ethics Pledge because I don't yet know whether you will be asked to sign it. Individuals who are appointed through the White House are required by Executive Order 13,770 to sign an ethics pledge but we don't yet know whether you will be a political appointment or not.

CHAIRMAN OF THE BOARD – SpiritBank

You explained that Spirit is a privately held community bank headquartered in Tulsa, Oklahoma, and that you serve as the chairman of the board. I advised you that OGC/Ethics (where I work) can approve you to continue to serve as the chairman as an "outside activity" (meaning outside of your federal employment), provided that you do not engage in those activities while on official EPA time or in the EPA workplace. You would instead have to take leave, perform the duties on the weekends or after business hours, or during lunch. We will remind you not to use your EPA email address or phone in connection with your bank activities. We will need to recuse you from working on banking issues (such as the Environmental Financial Advisory Board or financial assurance matters). You may be compensated for this work.

There are two complicating factors that I should mention now. First, as a federal employee, you will be subject to certain "representational conflicts of interest" statutes, 18 USC 203 and 205. Simply put, these statutes prohibit an employee from representing, say, SpiritBank, back to the United States government. So if there is an issue that requires the bank to interact with the US government (not just EPA), then you can't be the person who signs the letter or attends the meeting. Second, it may evolve that the Administrator wants you to serve in a political position as a non-career SES appointee or perhaps even in a Presidentially Appointed Senate confirmed

position. If so, then I will need to ascertain

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

but will be happy to check on that further if the need arises.

CHAIRMAN of the Oklahoma Turnpike Authority (OTA)

You explained that the OTA is an instrumentality of the State of Oklahoma, but that you were not actually an employee of the State. Rather, you volunteered for the position which oversees the board responsible for actions and policies to run 605 miles of toll roads. We agreed that you would resign this position, and I explained that, from one year from the date of your resignation, you would have a “cooling off” period with the OTA as a specific party. We discussed the fact that the application of that recusal is that you can’t work on a specific party matter (such as an investigation, enforcement action, permit, license, grant, contract) in which OTA is a party or represents a party, but that you could still work on transportation issues (including rulemaking) or other matters of general applicability.

The complicating factor here is that if you need to sign the Trump ethics pledge, then the recusal period expands to two years from the date you join EPA, and may extend a bit beyond specific party matters. That said, I don’t foresee any significant ethical obstacles with your service.

Premier Steel Services

You have a financial interest in a company that fabricates structural steel for buildings. I advised you that you could keep this asset but that we would have to recuse you from working on any particular matter of general applicability that affects this particular industry. That restriction will extend to rulemaking, but I think it unlikely that EPA would attempt to regulate just that industry. Again, I don’t foresee that keeping this asset will adversely affect your service to the Administrator.

Owner and Operator of a cattle ranch

You explained that you own the beef cattle and that an LLC owns the ranch. This is not a concentrated animal feeding operation, but rather a ranch where the cattle roam free. We will need to recuse you from working on, for example, agricultural-related issues, but I proposed that we restrict you from working on those issues that affect Oklahoma (where your ranch is located). We also talked a bit about another farm you own and lease to a tenant farmer. Since you don’t grow and harvest the wheat (it was wheat, right?) yourself, I am not currently inclined

to restrict you from working on agricultural issues in that state (as I recall, it wasn't Oklahoma). We'll nail down the advice for the wheat farm when we see your financial disclosure report. We discussed briefly the representational conflict of interest concern with regard to the LLC, but you didn't anticipate any likely issues.

Gosh, I think that's everything we discussed. It was a charming conversation, and I enjoyed our discussion! I will be on travel much of next week, so I may not be available if you call. But I should be checking email often, so do feel free to email me if you think of other issues.

Cheers,
Justina

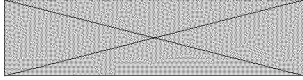
Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Albert 'Kell' Kelly [mailto:Ex. 6 - Personal Privacy]
Sent: Thursday, March 23, 2017 5:45 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Bank Chairman discussion

Hello Ms. Fugh. Thank you very much for your time yesterday. I hope your Ex. 6 - Personal Privacy continues to improve. I wanted to merely repeat in an email what I think I heard regarding the above.

I hope I am not too much of a bother here. I am just trying to be sure I am following the rules. Please review and amend or add or delete. Thank you again.

Albert 'Kell' Kelly
Chairman of the Board



Executive Division

Office phone: 918-295-7242

Mobile phone: Ex. 6 - Personal Privacy

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Albert Kelly OA



Certified by: Justina Fugh
Certificate Dated: 04/26/2017
Certificate ID Number: JFUH-ALV2JY
Full Organization: OA

According to the EPA Domino Directory.
Contact your local Help Desk if this
organizational information is not correct.



ETHICS PLEDGE

As a condition, and in consideration, of my employment in the United States Government in an appointee position invested with the public trust, I commit myself to the following obligations, which I understand are binding on me and are enforceable under law:

1. I will not, within 5 years after the termination of my employment as an appointee in any executive agency in which I am appointed to serve, engage in lobbying activities with respect to that agency.
2. If, upon my departure from the Government, I am covered by the post-employment restrictions on communicating with employees of my former executive agency set forth in section 207(c) of title 18, United States Code, I agree that I will abide by those restrictions.
3. In addition to abiding by the limitations of paragraphs 1 and 2, I also agree, upon leaving Government service, not to engage in lobbying activities with respect to any covered executive branch official or non-career Senior Executive Service appointee for the remainder of the Administration.
4. I will not, at any time after the termination of my employment in the United States Government, engage in any activity on behalf of any foreign government or foreign political party which, were it undertaken on January 20, 2017, would require me to register under the Foreign Agents Registration Act of 1938, as amended.
5. I will not accept gifts from registered lobbyists or lobbying organizations for the duration of my service as an appointee.
6. I will not for a period of 2 years from the date of my appointment participate in any particular matter involving specific parties that is directly and substantially related to my former employer or former clients, including regulations and contracts.
7. If I was a registered lobbyist within the 2 years before the date of my appointment, in addition to abiding by the limitations of paragraph 6, I will not for a period of 2 years after the date of my appointment participate in any particular matter on which I lobbied within the 2 years before the date of my appointment or participate in the specific issue area in which that particular matter falls.
8. I agree that any hiring or other employment decisions I make will be based on the candidate's qualifications, competence, and experience.
9. I acknowledge that the Executive Order entitled "Ethics Commitments by Executive Branch Appointees," issued by the President on January 28, 2017, which I have read before signing this document, defines certain terms applicable to the foregoing obligations and sets forth the methods for enforcing them. I expressly accept the provisions of that Executive Order as a part of this agreement and as binding on me. I understand that the obligations of this pledge are in addition to any statutory or other legal restrictions applicable to me by virtue of Government service.

Signature

_____, 20____
Date

Print or type your full name (last, first, middle)

The White House
Office of the Press Secretary
For Immediate Release
January 28, 2017

Executive Order: ETHICS COMMITMENTS BY EXECUTIVE BRANCH APPOINTEES

EXECUTIVE ORDER

- - - - -

ETHICS COMMITMENTS BY EXECUTIVE BRANCH APPOINTEES

By the authority vested in me as President of the United States by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, and sections 3301 and 7301 of title 5, United States Code, it is hereby ordered as follows:

Section 1. Ethics Pledge. Every appointee in every executive agency appointed on or after January 20, 2017, shall sign, and upon signing shall be contractually committed to, the following pledge upon becoming an appointee:

"As a condition, and in consideration, of my employment in the United States Government in an appointee position invested with the public trust, I commit myself to the following obligations, which I understand are binding on me and are enforceable under law:

"1. I will not, within 5 years after the termination of my employment as an appointee in any executive agency in which I am appointed to serve, engage in lobbying activities with respect to that agency.

"2. If, upon my departure from the Government, I am covered by the post-employment restrictions on communicating with employees of my former executive agency set forth in section 207(c) of title 18, United States Code, I agree that I will abide by those restrictions.

"3. In addition to abiding by the limitations of paragraphs 1 and 2, I also agree, upon leaving Government service, not to engage in lobbying activities with respect to any covered executive branch official or non-career Senior Executive Service appointee for the remainder of the Administration.

"4. I will not, at any time after the termination of my employment in the United States Government, engage in any activity on behalf of any foreign government or foreign political

party which, were it undertaken on January 20, 2017, would require me to register under the Foreign Agents Registration Act of 1938, as amended.

"5. I will not accept gifts from registered lobbyists or lobbying organizations for the duration of my service as an appointee.

"6. I will not for a period of 2 years from the date of my appointment participate in any particular matter involving specific parties that is directly and substantially related to my former employer or former clients, including regulations and contracts.

"7. If I was a registered lobbyist within the 2 years before the date of my appointment, in addition to abiding by the limitations of paragraph 6, I will not for a period of 2 years after the date of my appointment participate in any particular matter on which I lobbied within the 2 years before the date of my appointment or participate in the specific issue area in which that particular matter falls.

"8. I agree that any hiring or other employment decisions I make will be based on the candidate's qualifications, competence, and experience.

"9. I acknowledge that the Executive Order entitled 'Ethics Commitments by Executive Branch Appointees,' issued by the President on January 28, 2017, which I have read before signing this document, defines certain terms applicable to the foregoing obligations and sets forth the methods for enforcing them. I expressly accept the provisions of that Executive Order as a part of this agreement and as binding on me. I understand that the obligations of this pledge are in addition to any statutory or other legal restrictions applicable to me by virtue of Government service."

Sec. 2. Definitions. As used herein and in the pledge set forth in section 1 of this order:

(a) "Administration" means all terms of office of the incumbent President serving at the time of the appointment of an appointee covered by this order.

(b) "Appointee" means every full-time, non-career Presidential or Vice-Presidential appointee, non-career appointee in the Senior Executive Service (or other SES-type system), and appointee to a position that has been excepted from the competitive service by reason of being of a confidential or policymaking character (Schedule C and other positions excepted under comparable criteria) in an executive agency. It does not include any person appointed as a member of the Senior Foreign Service or solely as a uniformed service commissioned officer.

(c) "Covered executive branch official" shall have the definition set forth in the Lobbying Disclosure Act.

(d) "Directly and substantially related to my former employer or former clients" shall mean matters in which the appointee's former employer or a former client is a party or represents a party.

(e) "Executive agency" and "agency" mean "executive agency" as defined in section 105 of title 5, United States Code, except that the terms shall include the Executive Office of the President, the United States Postal Service, and the Postal Regulatory Commission, and excludes the Government Accountability Office. As used in paragraph 1 of the pledge, "executive agency" means the entire agency in which the appointee is appointed to serve, except that:

(1) with respect to those appointees to whom such designations are applicable under section 207(h) of title 18, United States Code, the term means an agency or bureau designated by the Director of the Office of Government Ethics under section 207(h) as a separate department or agency at the time the appointee ceased to serve in that department or agency; and

(2) an appointee who is detailed from one executive agency to another for more than 60 days in any calendar year shall be deemed to be an officer or employee of both agencies during the period such person is detailed.

(f) "Foreign Agents Registration Act of 1938, as amended" means sections 611 through 621 of title 22, United States Code.

(g) "Foreign government" means the "government of a foreign country," as defined in section 1(e) of the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. 611(e).

(h) "Foreign political party" has the same meaning as that term has in section 1(f) of the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. 611(f).

(i) "Former client" is any person for whom the appointee served personally as agent, attorney, or consultant within the 2 years prior to the date of his or her appointment, but excluding instances where the service provided was limited to a speech or similar appearance. It does not include clients of the appointee's former employer to whom the appointee did not personally provide services.

(j) "Former employer" is any person for whom the appointee has within the 2 years prior to the date of his or her appointment served as an employee, officer, director, trustee, or general partner, except that "former employer" does not include any executive agency or other entity of the Federal Government, State or local government, the District of Columbia, Native American tribe, or any United States territory or possession.

(k) "Gift"

(1) shall have the definition set forth in section 2635.203(b) of title 5, Code of Federal Regulations;

(2) shall include gifts that are solicited or accepted indirectly as defined at section 2635.203(f) of title 5, Code of Federal Regulations; and

(3) shall exclude those items excluded by sections 2635.204(b), (c), (e)(1) & (3), (j), (k), and (l) of title 5, Code of Federal Regulations.

(l) "Government official" means any employee of the executive branch.

(m) "Lobbied" shall mean to have acted as a registered lobbyist.

(n) "Lobbying activities" has the same meaning as that term has in the Lobbying Disclosure Act, except that the term does not include communicating or appearing with regard to: a judicial proceeding; a criminal or civil law enforcement inquiry, investigation, or proceeding; or any agency process for rulemaking, adjudication, or licensing, as defined in and governed by the Administrative Procedure Act, as amended, 5 U.S.C. 551 *et seq.*

(o) "Lobbying Disclosure Act" means sections 1601 *et seq.* of title 2, United States Code.

(p) "Lobbyist" shall have the definition set forth in the Lobbying Disclosure Act.

(q) "On behalf of another" means on behalf of a person or entity other than the individual signing the pledge or his or her spouse, child, or parent.

(r) "Particular matter" shall have the same meaning as set forth in section 207 of title 28, United States Code, and section 2635.402(b)(3) of title 5, Code of Federal Regulations.

(s) "Particular matter involving specific parties" shall have the same meaning as set forth in section 2641.201(h) of title 5, Code of Federal Regulations, except that it shall also include any meeting or other communication relating to the performance of one's official duties with a former employer or former client, unless the communication applies to a particular matter of general applicability and participation in the meeting or other event is open to all interested parties.

(t) "Participate" means to participate personally and substantially.

(u) "Pledge" means the ethics pledge set forth in section 1 of this order.

(v) "Post-employment restrictions" shall include the provisions and exceptions in section 207(c) of title 18, United States Code, and the implementing regulations.

(w) "Registered lobbyist or lobbying organization" shall mean a lobbyist or an organization filing a registration pursuant to section 1603(a) of title 2, United States Code, and in the case of an organization filing such a registration, "registered lobbyist" shall include each of the lobbyists identified therein.

(x) Terms that are used herein and in the pledge, and also used in section 207 of title 18, United States Code, shall be given the same meaning as they have in section 207 and any implementing regulations issued or to be issued by the Office of Government Ethics, except to the extent those terms are otherwise defined in this order.

(y) All references to provisions of law and regulations shall refer to such provisions as in effect on January 20, 2017.

Sec. 3. Waiver. (a) The President or his designee may grant to any person a waiver of any restrictions contained in the pledge signed by such person.

(b) A waiver shall take effect when the certification is signed by the President or his designee.

(c) A copy of the waiver certification shall be furnished to the person covered by the waiver and provided to the head of the agency in which that person is or was appointed to serve.

Sec. 4. Administration. (a) The head of every executive agency shall establish for that agency such rules or procedures (conforming as nearly as practicable to the agency's general ethics rules and procedures, including those relating to designated agency ethics officers) as are necessary or appropriate:

(1) to ensure that every appointee in the agency signs the pledge upon assuming the appointed office or otherwise becoming an appointee; and

(2) to ensure compliance with this order within the agency.

(b) With respect to the Executive Office of the President, the duties set forth in section 4(a) shall be the responsibility of the Counsel to the President or such other official or officials to whom the President delegates those duties.

(c) The Director of the Office of Government Ethics shall:

(1) ensure that the pledge and a copy of this Executive Order are made available for use by agencies in fulfilling their duties under section 4(a);

(2) in consultation with the Attorney General or Counsel to the President, when appropriate, assist designated agency ethics officers in providing advice to current or former appointees regarding the application of the pledge; and

(3) adopt such rules or procedures (conforming as nearly as practicable to its generally applicable rules and procedures) as are necessary or appropriate:

(i) to carry out the foregoing responsibilities;

(ii) to apply the lobbyist gift ban set forth in paragraph 5 of the pledge to all executive branch employees;

(iii) to authorize limited exceptions to the lobbyist gift ban for circumstances that do not implicate the purposes of the ban;

(iv) to make clear that no person shall have violated the lobbyist gift ban if the person properly disposes of a gift as provided by section 2635.206 of title 5, Code of Federal Regulations;

(v) to ensure that existing rules and procedures for Government employees engaged in negotiations for future employment with private businesses that are affected by their official actions do not affect the integrity of the Government's programs and operations; and

(vi) to ensure, in consultation with the Director of the Office of Personnel Management, that the requirement set forth in paragraph 8 of the pledge is honored by every employee of the executive branch;

(d) An appointee who has signed the pledge is not required to sign the pledge again upon appointment or detail to a different office, except that a person who has ceased to be an appointee, due to termination of employment in the executive branch or otherwise, shall sign the pledge prior to thereafter assuming office as an appointee.

(e) All pledges signed by appointees, and all waiver certifications with respect thereto, shall be filed with the head of the appointee's agency for permanent retention in the appointee's official personnel folder or equivalent folder.

Sec. 5. Enforcement. (a) The contractual, fiduciary, and ethical commitments in the pledge provided for herein are solely enforceable by the United States by any legally available means, including any or all of the following: debarment proceedings within any affected executive agency or civil judicial proceedings for declaratory, injunctive, or monetary relief.

(b) Any former appointee who is determined, after notice and hearing, by the duly designated authority within any agency, to have violated his or her pledge may be barred from engaging in lobbying activities with respect to that agency for up to 5 years in addition to the 5-year time period covered by the pledge. The head of every executive agency shall, in consultation with the Director of the Office of Government Ethics, establish procedures to implement this subsection, which shall include (but not be limited to) providing for factfinding and investigation of possible violations of this order and for referrals to the Attorney General for his or her consideration pursuant to subsection (c).

(c) The Attorney General or his or her designee is authorized:

(1) upon receiving information regarding the possible breach of any commitment in a signed pledge, to request any appropriate Federal investigative authority to conduct such investigations as may be appropriate; and

(2) upon determining that there is a reasonable basis to believe that a breach of a commitment has occurred or will occur or continue, if not enjoined, to commence a civil action on behalf of the United States against the former officer or employee in any United States District Court with jurisdiction to consider the matter.

(d) In such civil action, the Attorney General or his or her designee is authorized to request any and all relief authorized by law, including but not limited to:

(1) such temporary restraining orders and preliminary and permanent injunctions as may be appropriate to restrain future, recurring, or continuing conduct by the former officer or employee in breach of the commitments in the pledge he or she signed; and

(2) establishment of a constructive trust for the benefit of the United States, requiring an accounting and payment to the United States Treasury of all money and other things of value received by, or payable to, the former officer or employee arising out of any breach or attempted breach of the pledge signed by the former officer or employee.

Sec. 6. General Provisions. (a) This order supersedes Executive Order 13490 of January 21, 2009 (Ethics Commitments by Executive Branch Personnel), and therefore Executive Order 13490 is hereby revoked. No other prior Executive Orders are repealed by this order. To the extent that this order is inconsistent with any provision of any prior Executive Order, this order shall control.

(b) If any provision of this order or the application of such provision is held to be invalid, the remainder of this order and other dissimilar applications of such provision shall not be affected.

(c) The pledge and this order are not intended to, and do not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party (other than by the United States) against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) The definitions set forth in this order are solely applicable to the terms of this order, and are not otherwise intended to impair or affect existing law.

(e) Nothing in this order shall be construed to impair or otherwise affect:

(1) the authority granted by law to an executive department, agency, or the head thereof; or

(2) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(f) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

DONALD J. TRUMP

To: Fugh, Justina[Fugh.Justina@epa.gov]
Cc: Bowman, Liz[Bowman.Liz@epa.gov]
From: Konkus, John
Sent: Tue 8/1/2017 2:40:14 PM
Subject: RE: confirmation of conversation late last week

Thank you Justina. I have discussed this with my supervisor Liz Bowman, copied, and she has concurred, so long as you provide a positive determination and I do not serve in any spokesman capacity - which I will not.

Here are the details you requested from below, my responses in bold:

- name, title and grade: **John Konkus, Deputy Associate Administrator, GS15**
- the nature of the outside activity, including a full description of the services to be performed and the amount of compensation expected: **I will provide strategic consulting, mail and media (TV and video) production. My compensation is expected to be approximately \$[Ex. 6 - Personal Privacy] annually.**
- the name and business of the person or organization for which the work will be done (in cases of self-employment, indicate the type of services to be rendered and estimate the number of clients or customers anticipated during the next six months): **I will do my work through my existing Florida business; Saint Luke Solutions, LLC and expect 3 to 6 clients over the next six months. My two current clients will be Jamestown Associates and Florida State Representative [Ex. 6 - Personal Privacy]**
- the estimated time to be devoted to the activity: **1-2 hours nightly, 5-6 hours each weekend.**
- whether the service will be performed entirely outside of normal duty hours (if not, estimate the number of hours of absence from work required): **Work will be done entirely outside of businesses hours to include only nights and weekends.**
- a statement that no official duty time or Government property, resources, or facilities not available to the general public will be used in connection with the outside employment: **I will use no official duty time or Government property, resources, or facilities not available to the general public in connection with the outside employment.**
- the basis for compensation (e.g., fee, per diem, per annum, etc.): **Compensation may come via fees, per project and annual commission.**
- a statement that you have read, are familiar with, and will abide by the restrictions described in 5 CFR Part 2635 (Subpart H on "Outside Activities") and Section 6401.103 (EPA's Supplemental Regulations); and
- an identification of any EPA assistance agreements or contracts held by a person to or for whom services would be provided: **I have read and will abide by 5 CFR Part 2635 (Subpart H on "Outside Activities") and Section 6401.103 (EPA's Supplemental Regulations) and no EPA assistance agreements or contracts held by a person to or for whom services would be provided.**

Thank you both for helping approve this little bit of extra work, which [Ex. 6 - Personal Privacy]

[Ex. 6 - Personal Privacy]

John Konkus

From: Fugh, Justina
Sent: Tuesday, August 1, 2017 9:57 AM

To: Konkus, John <konkus.john@epa.gov>
Subject: confirmation of conversation late last week

Hi John,

This note confirms our discussion last week. You are interested in “moonlighting” with your former employer, Jamestown Associates, and possibly others. You expect to be compensated for this work, and I advised you that, as a Schedule C appointee, you are not subject to any cap on how much you can earn in an outside position.

I advised you, though, that you must seek prior approval of this outside activity by sending an email through your immediate supervisor to me as your Deputy Ethics Official. I will provide the actual determination, but I will want to see that your supervisor concurs. Your note should address the following:

- name, title and grade;
- the nature of the outside activity, including a full description of the services to be performed and the amount of compensation expected;
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- an identification of any EPA assistance agreements or contracts held by a person to or for whom services would be provided.

You will not be permitted to use any nonpublic information in connection with this work, nor can you use the EPA seal. You must conduct all of the outside work off government premises at all times and can never use EPA equipment, time or resources to further the outside activity. Avoid making any reference to your EPA position, title or affiliation, but if you must include EPA in your bio, then it must be as part of several other significant biographical details with EPA not having any undue prominence.

You will have to report the outside position and any gross income on your next financial disclosure report. And you will have a financial conflict of interest with Jamestown Associates as your new employer, as well as with any clients for whom you provide services.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

To: Fugh, Justina[Fugh.Justina@epa.gov]
From: Konkus, John
Sent: Tue 8/1/2017 1:50:34 PM
Subject: RE: Gentle reminder from OGC/Ethics: Any transactions to report?

It was.

From: Fugh, Justina
Sent: Tuesday, August 1, 2017 9:50 AM
To: Konkus, John <konkus.john@epa.gov>
Subject: RE: Gentle reminder from OGC/Ethics: Any transactions to report?

If the purchase was more than \$1000, then yes.

From: Konkus, John
Sent: Tuesday, August 01, 2017 8:34 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: FW: Gentle reminder from OGC/Ethics: Any transactions to report?

FYI I filed one of these this morning for a stock purchase I made. Thank you!

From: DCOGCLN1/DC/USEPA/US [mailto:DCOGCLN1/DC/USEPA/US@epamail.epa.gov]
Sent: Tuesday, August 1, 2017 3:00 AM
To: John Konkus <Konkus.John@epamail.epa.gov>
Subject: Gentle reminder from OGC/Ethics: Any transactions to report?

---- This is your gentle reminder from OGC/Ethics: Do you have a periodic transaction to report?? ----

Dear 278 Filer –

Because you file the OGE 278e, you are also required to file periodic transaction reports using the OGE 278T using INTEGRITY, the new online financial disclosure system created and maintained by the Office of Government Ethics (<https://www.integrity.gov>). You must file a periodic transaction report when you purchase, sell, or exchange certain investments like stocks, bonds, commodities futures, options or other

forms of securities if the amount of the transaction exceeds \$1,000. These transactions are reportable even if they occur within brokerage accounts, managed accounts, or other investment vehicles that you own or that are owned by anyone else whose interests are imputed to you (i.e., spouse and/or dependent children).

Please note that not all transactions are reportable on this periodic basis. Don't report transactions of less than \$1000 at a time. And you don't have to file a 278T for transactions involving investments such as mutual funds, exchange traded funds, real estate, or U.S. Treasury notes.

If you have a reportable periodic transaction, then you must file the OGE 278T in INTEGRITY within 30 days of receiving notification of the transaction, but not later than 45 days after the transaction occurs. You can be fined \$200 for any missed periodic report. If you don't have any reportable transactions, then don't submit a negative report. Keep track of your transactions because even if they aren't reportable periodically, they may still be reportable Schedule B of your next annual filing. Also, the INTEGRITY system will allow you to upload your transactions automatically into the appropriate annual report.

For more assistance on INTEGRITY, check out the OGC/Ethics help page at:
<http://intranet.epa.gov/ogc/Integrity/Landingpage.html>

Thanks!

The OGC/Ethics team

To: Fugh, Justina[Fugh.Justina@epa.gov]
Cc: Bowman, Liz[Bowman.Liz@epa.gov]
From: Konkus, John
Sent: Fri 8/4/2017 2:11:02 PM
Subject: Re: your financial disclosure report

Thank you Justina.

John Konkus

Environmental Protection Agency

Deputy Associate Administrator for Public Affairs

Mobile: (202) 365-9250

On Aug 4, 2017, at 9:29 AM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

Hi there,

You may recall that I had mentioned to you that, as a public filer, your financial disclosure report can be made available to the public upon request. Well, I'm writing to confirm that your report has been requested and will be released later today. OGC/Ethics typically waits to fill those requests until after we have received and certified the report, and I will finally get around to releasing a batch of reports today. Here is the person who will receive your report:

Rachel Leven, Public Integrity

Because the release will go to a member of the news media, I'm alerting OPA (but OPA won't actually see your form).

Best,
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

To: Fugh, Justina[Fugh.Justina@epa.gov]
From: Konkus, John
Sent: Tue 6/13/2017 4:01:57 PM
Subject: Re: can you give me a call?

Sure! I'm on the Hill. Will call as soon as I get back.

John Konkus

Environmental Protection Agency

Deputy Associate Administrator for Public Affairs

Mobile: (202) 365-9250

On Jun 13, 2017, at 12:00 PM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

I think that we need to talk some more about your financial disclosure report. I can't quite remember what we discussed a few weeks ago, and now I need a refresher about that conversation.

Thanks,
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

To: Konkus, John[konkus.john@epa.gov]
From: Fugh, Justina
Sent: Wed 8/2/2017 4:27:30 PM
Subject: Re: REVISED: confirmation of conversation late last week

Maybe because there is no state income tax?

Sent from my iPhone

On Aug 1, 2017, at 5:35 PM, Konkus, John <konkus.john@epa.gov> wrote:

FL is more expensive.

From: Fugh, Justina
Sent: Tuesday, August 1, 2017 5:25 PM
To: Konkus, John <konkus.john@epa.gov>
Subject: RE: REVISED: confirmation of conversation late last week

I am so sorry.

Ex. 6 - Personal Privacy

Ex. 6 - Personal Privacy

From: Konkus, John
Sent: Tuesday, August 01, 2017 4:34 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: REVISED: confirmation of conversation late last week

They won't refund the LLC money FYI ... oh well the cost of business!

From: Konkus, John
Sent: Tuesday, August 1, 2017 2:49 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: REVISED: confirmation of conversation late last week

Yes let's talk. When can I call you?

From: Fugh, Justina
Sent: Tuesday, August 1, 2017 2:45 PM
To: Konkus, John <konkus.john@epa.gov>
Subject: REVISED: confirmation of conversation late last week

John,
I have awful news for you.

I double checked, and it turns out that Schedule C appointees are in fact subject to the cap on outside earned income. I had thought that the requirement, set forth at 5 CFR 2635.804, applied only to non-career SES employees, but it does apply to Schedule Cs as well. See 5 CFR 2636.301(a)(3). This means two things: first, you cannot accept any amount of outside compensation that exceeds \$27,765 (gross) per year. And you are prohibited from receiving any compensation for “practicing a profession which involves a fiduciary relationship; affiliating with or being employed by a firm or other entity which provides professional services involving a fiduciary relationship; serving as an officer or member of the board of any association, corporation or other entity; or teaching without prior approval.” 5 CFR 2635.804(b).

(b) (5)



We should probably talk more.
Justina

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From: Konkus, John
Sent: Tuesday, August 01, 2017 10:40 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Bowman, Liz <Bowman.Liz@epa.gov>
Subject: RE: confirmation of conversation late last week

Thank you Justina. I have discussed this with my supervisor Liz Bowman, copied, and she has

concluded, so long as you provide a positive determination and I do not serve in any spokesman capacity – which I will not.

Here are the details you requested from below, my responses in bold:

- name, title and grade: **John Konkus, Deputy Associate Administrator, GS15**
- the nature of the outside activity, including a full description of the services to be performed and the amount of compensation expected: **I will provide strategic consulting, mail and media (TV and video) production. My compensation is expected to be approximately \$ Ex. 6 - Personal Privacy annually.**
- the name and business of the person or organization for which the work will be done (in cases of self-employment, indicate the type of services to be rendered and estimate the number of clients or customers anticipated during the next six months): **I will do my work through my existing Florida business; Saint Luke Solutions, LLC and expect 3 to 6 clients over the next six months. My two current clients will be Jamestown Associates and Florida State Representative Ex. 6 - Personal Privacy**
- the estimated time to be devoted to the activity: **1-2 hours nightly, 5-6 hours each weekend.**
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- a statement that you have read, are familiar with, and will abide by the restrictions described in 5 CFR Part 2635 (Subpart H on "Outside Activities") and Section 6401.103 (EPA's Supplemental Regulations); and
- an identification of any EPA assistance agreements or contracts held by a person to or for whom services would be provided: **I have read and will abide by 5 CFR Part 2635 (Subpart H on "Outside Activities") and Section 6401.103 (EPA's Supplemental Regulations) and no EPA assistance agreements or contracts held by a person to or for whom services would be provided.**

Thank you both for helping approve this little bit of extra work, which Ex. 6 - Personal Privacy

John Konkus

From: Fugh, Justina
Sent: Tuesday, August 1, 2017 9:57 AM
To: Konkus, John <konkus.john@epa.gov>
Subject: confirmation of conversation late last week

Hi John,
This note confirms our discussion last week. You are interested in "moonlighting" with your former employer, Jamestown Associates, and possibly others. You expect to be compensated for

this work, and I advised you that, as a Schedule C appointee, you are not subject to any cap on how much you can earn in an outside position.

I advised you, though, that you must seek prior approval of this outside activity by sending an email through your immediate supervisor to me as your Deputy Ethics Official. I will provide the actual determination, but I will want to see that your supervisor concurs. Your note should address the following:

- name, title and grade;
- the nature of the outside activity, including a full description of the services to be performed and the amount of compensation expected;
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- an identification of any EPA assistance agreements or contracts held by a person to or for whom services would be provided.

You will not be permitted to use any nonpublic information in connection with this work, nor can you use the EPA seal. You must conduct all of the outside work off government premises at all times and can never use EPA equipment, time or resources to further the outside activity. Avoid making any reference to your EPA position, title or affiliation, but if you must include EPA in your bio, then it must be as part of several other significant biographical details with EPA not having any undue prominence.

You will have to report the outside position and any gross income on your next financial disclosure report. And you will have a financial conflict of interest with Jamestown Associates as your new employer, as well as with any clients for whom you provide services.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

To: Konkus, John[konkus.john@epa.gov]
From: Fugh, Justina
Sent: Wed 8/2/2017 1:08:42 AM
Subject: RE: REVISED: confirmation of conversation late last week
approval for John Konkus for consulting.docx

You are too nice to me, John. I feel awful about my error. Here's your approval.

From: Konkus, John
Sent: Tuesday, August 01, 2017 5:42 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Re: REVISED: confirmation of conversation late last week

I can live with the \$27k cap though, **Ex. 6 - Personal Privacy**

John Konkus

Environmental Protection Agency

Deputy Associate Administrator for Public Affairs

Mobile: (202) 365-9250

On Aug 1, 2017, at 5:25 PM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

I am so sorry.

Ex. 6 - Personal Privacy

Ex. 6 - Personal Privacy

From: Konkus, John
Sent: Tuesday, August 01, 2017 4:34 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: REVISED: confirmation of conversation late last week

They won't refund the LLC money FYI ... oh well the cost of business!

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Sent: Tuesday, August 1, 2017 2:49 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: REVISED: confirmation of conversation late last week

Yes let's talk. When can I call you?

From: Fugh, Justina
Sent: Tuesday, August 1, 2017 2:45 PM
To: Konkus, John <konkus.john@epa.gov>
Subject: REVISED: confirmation of conversation late last week

John,

I have awful news for you.

I double checked, and it turns out that Schedule C appointees are in fact subject to the cap on outside earned income. I had thought that the requirement, set forth at 5 CFR 2635.804, applied only to non-career SES employees, but it does apply to Schedule Cs as well. See 5 CFR 2636.301(a)(3). This means two things: first, you cannot accept any amount of outside compensation that exceeds \$27,765 (gross) per year. And you are prohibited from receiving any compensation for "practicing a profession which involves a fiduciary relationship; affiliating with or being employed by a firm or other entity which provides professional services involving a fiduciary relationship; serving as an officer or member of the board of any association, corporation or other entity; or teaching without prior approval." 5 CFR 2635.804(b).

(b) (5)



(b) (5)



We should probably talk more.

Justina

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From: Konkus, John
Sent: Tuesday, August 01, 2017 10:40 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Bowman, Liz <Bowman.Liz@epa.gov>
Subject: RE: confirmation of conversation late last week

Thank you Justina. I have discussed this with my supervisor Liz Bowman, copied, and she has concurred, so long as you provide a positive determination and I do not serve in any

spokesman capacity – which I will not.

Here are the details you requested from below, my responses in bold:

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Ex. 6 - Personal Privacy

John Konkus

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You will have to report the outside position and any gross income on your next financial disclosure report. And you will have a financial conflict of interest with Jamestown Associates as your new employer, as well as with any clients for whom you provide services.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Washington, D.C. 20460

OFFICE OF
GENERAL COUNSEL

MEMORANDUM

SUBJECT: Approval of Outside Activity

FROM: Justina Fugh
Alternate Designated Agency Ethics Official

TO: John Konkus
Deputy Associate Administrator
Office of Public Affairs

I have received your request to engage in outside activity for compensation. You wish to take on clients to advise about strategy, mail and media production. You have two likely clients now (Jamestown Associates and a Florida State Representative), and anticipate getting more clients in the next six months.

You are a Schedule C appointee and, as such, are subject to an outside earned income limitation set forth at 5 CFR 2635.804. This restriction does apply to Schedule C appointees, as explained at 5 CFR 2636.301(a)(3). For 2017, you cannot earn more than \$27,765 in your outside activity. The restriction also prevents you from accepting compensation for "practicing a profession which involves a fiduciary relationship; affiliating with or being employed by a firm or other entity which provides professional services involving a fiduciary relationship; serving as an officer or member of the board of any association, corporation or other entity; or teaching without prior approval." 5 CFR 2635.804(b). We have determined that providing consultative media advice is not a fiduciary role, and you will be providing those services directly as opposed to through any corporation.

Based on the information you have provided, I am approving your request as consistent with 5 C.F.R. Part 2635, Subpart H. Please note that, generally, an approval for outside employment remains valid for five years, though you must request a new approval should there be a change in the nature or scope of your duties. As your consulting duties will remain the same, just inform me of any new

clients so that I can advise you about any additional conflicts issues if they arise.
I have set forth below a reminder about several ethics principles:

Financial Conflicts of Interest

Because you will be compensated by the clients, you have a financial conflict of interest with both of them. You cannot participate in your EPA duties in any matter that will have a direct and predictable financial effect upon your outside clients. You cannot work on particular matters that involve your clients as a specific party nor can you work on particular matters of general applicability.

You will need to report the consulting work and gross income on your next financial disclosure report in Part 2.

Representation

Don't forget, you are generally prohibited by a criminal law from representing another entity back to the federal government in any matter in which the United States is a party or has a direct and substantial interest. See 18 U.S.C. §§ 203 and 205. You cannot contact the US government on behalf of Saint Luke Solutions LLC or any of your clients.

* * * * *

As always, if you have any questions, please feel free to contact me at 564-1786.

To: Konkus, John[konkus.john@epa.gov]
From: Fugh, Justina
Sent: Fri 6/16/2017 5:17:35 PM
Subject: RE: Financial Disclosure
[JKonkus new entrant.pdf](#)

Hey fellow crab cake and popcorn lover,

Thanks for reminding me that you had sent this. With that info and our chat, I was able to certify your report! see attached pdf.

Justina

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North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the
zip code) | phone 202-564-1786 | fax 202-564-1772

From: Konkus, John
Sent: Wednesday, May 31, 2017 6:09 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Financial Disclosure

Justina: This is the status of my **Ex. 6 - Personal Privacy** Subsequently I received the attached letter on April 27, but the remaining paperwork has yet to arrive.

Hi John,

I am writing to let you know that

Ex. 6 - Personal Privacy

Ex. 6 - Personal Privacy

Ex. 6 - Personal Privacy

Ex. 6 - Personal Privacy

Ex. 6 - Personal Privacy

Please contact me by phone or email to discuss your **Ex. 6 - Personal Privacy**

Regards,

Ex. 6 - Personal Privacy

DISCLOSURE: Wells Fargo Advisors and its financial advisors provide non-fiduciary services *only*. They do not provide investment advice [as defined under the Employee Retirement Income Security Act of 1974 as amended ("ERISA")], have any discretionary authority with respect to the plan, make any investment or other decisions on behalf of the plan, or otherwise take any action that would make them fiduciaries to the plan under ERISA. The amounts shown above are provided in good faith but do not replace official Wells Fargo Advisors statements.

Ex. 6 - Personal Privacy

Masters of Science in Finance

Wells Fargo Advisors | 20 William Street, Suite 300 | Wellesley, MA 02481

Ex. 6 - Personal Privacy

E-mail cannot be used for trade instructions or anything requiring your signature.

To: Konkus, John[konkus.john@epa.gov]
From: Fugh, Justina
Sent: Wed 5/31/2017 9:19:20 PM
Subject: REMINDER: you still have more work to do on your financial disclosure report

Hi -

Please don't forget that your report is not yet certified. You have a little more work to do, please.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Fugh, Justina
Sent: Tuesday, May 23, 2017 6:39 PM
To: Konkus, John <konkus.john@epa.gov>
Subject: returning your report to you for some more work, please

Hi John,

Thanks for answering the general comments, but I need to send your report back to you so you can answer the specific questions (see below). One thing you missed is to report where else you worked in CY 2016 for "Filer's Positions." What about

Ex. 6 - Personal Privacy

Ex. 6 - Personal Privacy

2. 1

Ex. 6 - Personal Privacy

2. 2

3. 2

6. 1

Ex. 6 - Personal Privacy

Thanks!

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Washington, D.C. 20460

As a condition, and in consideration, of my employment in the United States Government in an appointee position invested with the public trust, I commit myself to the following obligations, which I understand are binding on me and are enforceable under law:

1. I will not, within 5 years after the termination of my employment as an appointee in any executive agency in which I am appointed to serve, engage in lobbying activities with respect to that agency.
2. If, upon my departure from the Government, I am covered by the post-employment restrictions on communicating with employees of my former executive agency set forth in section 207(c) of title 18, United States Code, I agree that I will abide by those restrictions.
3. In addition to abiding by the limitations of paragraphs 1 and 2, I also agree, upon leaving Government service, not to engage in lobbying activities with respect to any covered executive branch official or non-career Senior Executive Service appointee for the remainder of the Administration.
4. I will not, at any time after the termination of my employment in the United States Government, engage in any activity on behalf of any foreign government or foreign political party which, were it undertaken on January 20, 2017, would require me to register under the Foreign Agents Registration Act of 1938, as amended.
5. I will not accept gifts from registered lobbyists or lobbying organizations for the duration of my service as an appointee.
6. I will not for a period of 2 years from the date of my appointment participate in any particular matter involving specific parties that is directly and substantially related to my former employer or former clients, including regulations and contracts.
7. If I was a registered lobbyist within the 2 years before the date of my appointment, in addition to abiding by the limitations of paragraph 6, I will not for a period of 2 years after the date of my appointment participate in any particular matter on which I lobbied within the 2 years before the date of my appointment or participate in the specific issue area in which that particular matter falls.
8. I agree that any hiring or other employment decisions I make will be based on the candidate's qualifications, competence, and experience.

9. I acknowledge that the Executive Order entitled 'Ethics Commitments by Executive Branch Appointees,' issued by the President on January 28, 2017, which I have read before signing this document, defines certain terms applicable to the foregoing obligations and sets forth the methods for enforcing them. I expressly accept the provisions of that Executive Order as a part of this agreement and as binding on me. I understand that the obligations of this pledge are in addition to any statutory or other legal restrictions applicable to me by virtue of Government service.

Printed Name: John Konkus

Signature: John Konkus

Date: 2/24/17

John Konkus OA



Certified by: Justina Fugh
Certificate Dated: 01/27/2017
Certificate ID Number: JFUH-AJ6TDM
Full Organization: OA,OAES

According to the EPA Domino Directory,
Contact your local Help Desk if this
organizational information is not correct.

From: Munoz, Charles
Location: 4308 WJC-N
Importance: Normal
Subject: Ethics Training with Millan Hupp, Deputy Director for Scheduling and Advance and Sydney Hupp, Special Assistant to the Chief of Staff
Start Date/Time: Thur 3/16/2017 2:00:00 PM
End Date/Time: Thur 3/16/2017 3:00:00 PM

From: Fugh, Justina
Location: 4308 WJC-N
Importance: Normal
Subject: Accepted: Ethics Training with Millan Hupp, Deputy Director for Scheduling and Advance and Sydney Hupp, Special Assistant to the Chief of Staff
Start Date/Time: Thur 3/16/2017 2:00:00 PM
End Date/Time: Thur 3/16/2017 3:00:00 PM

To: Millan Hupp[Hupp.Millan@epamail.epa.gov]
From: Justina Fugh
Sent: Sat 8/26/2017 12:30:11 AM
Subject: 278 FORM RECEIVED -- thank you!

Dear Millan,

I am writing to confirm that OGC-Ethics received your SF-278 that you recently submitted. We will review it in accordance with the applicable standards and, if we have any questions, will notify you directly. If you have any questions, please feel free to contact me at (202) 564-1786.

Regards, Justina Fugh
Senior Counsel for Ethics

To: Fugh, Justina[Fugh.Justina@epa.gov]
Cc: Ross, Margaret[Ross.Margaret@epa.gov]
From: Hupp, Millan
Sent: Tue 8/22/2017 1:20:03 AM
Subject: Re: where oh where is your financial disclosure report?

Submitted.

Millan Hupp

Director of Scheduling and Advance

Office of the Administrator, EPA
202.380.7561

hupp.millan@epa.gov

From: Fugh, Justina
Sent: Friday, August 11, 2017 8:56:16 PM
To: Hupp, Millan
Cc: Ross, Margaret
Subject: where oh where is your financial disclosure report?

REMINDER: You asked for and received a 90 day extension, which expired on 7/13/17. Your 30 day grace period expires on MONDAY, August 14.
I cannot give you any more time, so please don't ask. We can assess a \$200 late filing fee if you don't get your report in by Monday.

According to INTEGRITY, you have not yet submitted your report. If you think you did – HA! – think again! You need to go into INTEGRITY (www.integrity.gov) to open your form, then scroll down the left hand menu to click on "submit report." Wait for that page to load, then scroll down the page to get to the attestation paragraph. Attest and then hit the submit button.

Here are your reminders about filling out the form online

EPA has now moved to an entirely electronic filing system next year (called INTEGRITY.gov or INTEGRITY), so you must file the form (now called the OGE 278e) electronically. You are required by law to complete the form, which will help us determine whether you have any financial conflicts of interest or other ethics concerns. There are several important things to know about the OGE-278e: (1) it is a public form (which means that anyone can ask for a copy of your form, but Congress repealed the requirement for public posting to the internet); (2) you have to fill it out every year you are in this position; (3) when you leave the position, you will have to file a termination report; and (4) you will be subject to a late filing fee of \$200 for not filing your report timely, and there are also civil and criminal penalties for failure to file at all or for inaccurate reporting.

THE FINANCIAL DISCLOSURE REPORT, OGE-278e

We created an account for you in INTEGRITY, which is the electronic filing system operated and secured by the Office of Government Ethics (OGE). Your user ID is your EPA email address. You were assigned a "new entrant" report with the EPA's business address already included. Do not enter your personal home address in that place. For help in INTEGRITY, check out the information on the OGC/Ethics website at <http://intranet.epa.gov/ogc/Integrity/Landingpage.html> . The email from INTEGRITY.gov will provide you with specific instructions to log into the federal government's max.gov site, the gateway to INTEGRITY.

HELPFUL HINTS FOR FILLING OUT THE FORM

- This is a wretched and exacting form.
- You will get three different places to report assets: filer's employment-related assets and income, spouse's employment related assets and income , and other assets and income. So you are reporting the assets for yourself, your spouse and your dependent children. We don't really care where you report your assets, just that you do report them all someplace.
- You must include any investment asset that is worth more than \$1000. Include any income from any source that exceeded \$200 during the reporting period (including outside jobs or hobbies, rental income). Include any cash/savings accounts that have more than \$5000.
- Enter each asset separately. Don't lump items together on one line. Be sure to provide the valuation of the asset AND the amount of the income. For assets that aren't mutual funds, you also have to report the type of income (e.g., dividends, cap gains).
- For 401(k) or IRA plans, provide the name of each of the underlying assets. Don't just write "Vanguard IRA" or "mutual fund." You must specify each asset separately and give the valuation and amount of accrued investment income. The definition of "investment income" is NOT tied to what's taxable! You must report accrued income, even if tax deferred or exempt, that you got in the asset over the reporting period (which is last calendar year + this calendar year, up to the date of filing). Look at 1099 forms for the accrued income from investments or review your statements.
- Do not report your federal salary, your spouse's federal salary, or TSP
- But if you (not your spouse) have any earned income (e.g., outside job, paid pension), you have to report the actual amount of that income.
- But if your spouse works outside of federal service, then include your spouse's employer but not the amount of your spouse's salary. If you are not legally married, do not report your significant other's employer.
- Don't forget to include any life insurance policies (whole life or variable life) as well as the underlying investments, but do not report term life insurance.
- If you have nothing to report in a section, be sure to click the "nothing to report" button

Let me know if you have any problems! Just get SOMETHING submitted to stop the clock, and we'll help you with the rest!

Cheers,
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

To: Fugh, Justina[Fugh.Justina@epa.gov]
Cc: Ross, Margaret[Ross.Margaret@epa.gov]
From: Hupp, Millan
Sent: Mon 8/21/2017 9:27:43 AM
Subject: Re: where oh where is your financial disclosure report?

Will be done today.

Sent from my iPhone

On Aug 11, 2017, at 8:56 PM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

REMINDER: You asked for and received a 90 day extension, which expired on 7/13/17. Your 30 day grace period expires on MONDAY, August 14.

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- Enter each asset separately. Don't lump items together on one line. Be sure to provide the valuation of the asset AND the amount of the income. For assets that aren't mutual funds, you also have to report the type of income (e.g., dividends, cap gains).
- For 401(k) or IRA plans, provide the name of each of the underlying assets. Don't just write "Vanguard IRA" or "mutual fund." You must specify each asset separately and give the valuation and amount of accrued investment income. The definition of "investment income" is NOT tied to what's taxable! You must report accrued income, even if tax deferred or exempt, that you got in the asset over the reporting period (which is last calendar year + this calendar year, up to the date of filing). Look at 1099 forms for the accrued income from investments or review your statements.
- Do not report your federal salary, your spouse's federal salary, or TSP
- But if you (not your spouse) have any earned income (e.g., outside job, paid pension), you have to report the actual amount of that income.
- But if your spouse works outside of federal service, then include your spouse's employer but not the amount of your spouse's salary. If you are not legally married, do not report your significant other's employer.
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Cheers,
Justina

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To: Hupp, Millan[hupp.millan@epa.gov]
From: Fugh, Justina
Sent: Tue 8/1/2017 1:18:25 PM
Subject: REMINDER: you need to sign the Trump ethics pledge
[P45 Executive Order.pdf](#)
[P45 Ethics Pledge blank.pdf](#)

Hi Millan,

We have not yet received your signed ethics pledge.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the
zip code) | phone 202-564-1786 | fax 202-564-1772

From: Fugh, Justina
Sent: Friday, July 07, 2017 3:19 PM
To: Hupp, Millan <hupp.millan@epa.gov>
Cc: Duross, Jeanne <Duross.Jeanne@epa.gov>; Griffo, Shannon <Griffo.Shannon@epa.gov>;
Fort, Daniel <Fort.Daniel@epa.gov>; Ford, Hayley <ford.hayley@epa.gov>
Subject: you will need to sign the Trump ethics pledge

Hi Millan,

On January 28, 2017, President Donald J. Trump issued an Executive Order on Ethics Commitments for all political appointees in his administration that contains additional restrictions during and after your federal service. I understand that, effective July 9, 2017, you will be converted to a Schedule C position. As such, you will be required to sign the ethics pledge, which I have attached together with the executive order itself. Please print out the pledge and then sign and date it, then return to me, either in hard copy or by pdf. I would appreciate getting this signed pledge back by the end of this week.

The significant points of the Executive Order are as follows:

If you were a federally registered lobbyist in the previous 2 years --

- For the next 2 years, you will not participate in any particular matter on which you lobbied within the previous 2 years and you will not participate in the specific issue area in which that particular matter falls.

While you are a federal employee --

- You will not accept any gifts from a registered lobbyist, including attendance at a widely attended gathering. There are a few exceptions, so ask an ethics official for guidance *in advance*.
- For 2 years from the date of your appointment, you will not participate in any particular matter involving specific parties that is directly and substantially related to your former employer or former client(s), including regulations and contracts; and
- Any hiring or other employment decisions you make will be based on the candidate's qualifications, competence and experience.

After you leave federal service --

- For 5 years, you will not engage in any lobbying activities with respect to the agency in which you were appointed to serve;
- For the remainder of the Administration, you will not engage in lobbying activities with respect to any covered executive branch official or non-career SES employee; and
- For the rest of your life, you will not engage in any activity on behalf of a foreign government or foreign political party as their "agent" requiring registration under the Foreign Agents Registration Act of 1938 and defined at 22 U.S.C. § 611(c) (as those terms were defined as of 1/20/17).

It's important to know that the post employment lobbying restrictions are broad and extend beyond being a registered lobbyist. For the purposes of the pledge, *lobbying activities* means any oral or written communication to a covered executive branch official or non-career Senior Executive Service appointee, as well as any efforts that are intended, at the time of performance, to support a covered lobbying contact to such person.

Finally, you agree that the terms of the ethics pledge are binding upon you.

I will be out of the office next week, but have copied the ethics team who can provide you with any assistance you may need. Thanks in advance for your attention to this important matter.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

To: Hupp, Millan[hupp.millan@epa.gov]
Cc: Duross, Jeanne[Duross.Jeanne@epa.gov]; Griffo, Shannon[Griffo.Shannon@epa.gov]; Fort, Daniel[Fort.Daniel@epa.gov]; Ford, Hayley[ford.hayley@epa.gov]
From: Fugh, Justina
Sent: Fri 7/7/2017 7:19:20 PM
Subject: you will need to sign the Trump ethics pledge
[P45 Executive Order.pdf](#)
[P45 Ethics Pledge blank.pdf](#)

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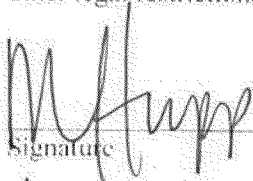
Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772



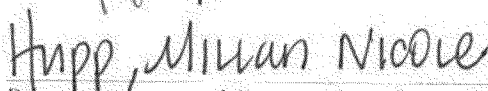
ETHICS PLEDGE

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9. I acknowledge that the Executive Order entitled "Ethics Commitments by Executive Branch Appointees," issued by the President on January 28, 2017, which I have read before signing this document, defines certain terms applicable to the foregoing obligations and sets forth the methods for enforcing them. I expressly accept the provisions of that Executive Order as a part of this agreement and as binding on me. I understand that the obligations of this pledge are in addition to any statutory or other legal restrictions applicable to me by virtue of Government service.


Signature


Date


Print or type your full name (last, first, middle)

Millan Hupp OA



Certified by: Justina Fugh
Certificate Dated: 03/16/2017
Certificate ID Number: JFUH-AKJJCJ
Full Organization: OA

According to the EPA Domino Directory.
Contact your local Help Desk if this
organizational information is not correct.



ETHICS PLEDGE

As a condition, and in consideration, of my employment in the United States Government in an appointee position invested with the public trust, I commit myself to the following obligations, which I understand are binding on me and are enforceable under law:

1. I will not, within 5 years after the termination of my employment as an appointee in any executive agency in which I am appointed to serve, engage in lobbying activities with respect to that agency.
2. If, upon my departure from the Government, I am covered by the post-employment restrictions on communicating with employees of my former executive agency set forth in section 207(c) of title 18, United States Code, I agree that I will abide by those restrictions.
3. In addition to abiding by the limitations of paragraphs 1 and 2, I also agree, upon leaving Government service, not to engage in lobbying activities with respect to any covered executive branch official or non-career Senior Executive Service appointee for the remainder of the Administration.
4. I will not, at any time after the termination of my employment in the United States Government, engage in any activity on behalf of any foreign government or foreign political party which, were it undertaken on January 20, 2017, would require me to register under the Foreign Agents Registration Act of 1938, as amended.
5. I will not accept gifts from registered lobbyists or lobbying organizations for the duration of my service as an appointee.
6. I will not for a period of 2 years from the date of my appointment participate in any particular matter involving specific parties that is directly and substantially related to my former employer or former clients, including regulations and contracts.
7. If I was a registered lobbyist within the 2 years before the date of my appointment, in addition to abiding by the limitations of paragraph 6, I will not for a period of 2 years after the date of my appointment participate in any particular matter on which I lobbied within the 2 years before the date of my appointment or participate in the specific issue area in which that particular matter falls.
8. I agree that any hiring or other employment decisions I make will be based on the candidate's qualifications, competence, and experience.
9. I acknowledge that the Executive Order entitled "Ethics Commitments by Executive Branch Appointees," issued by the President on January 28, 2017, which I have read before signing this document, defines certain terms applicable to the foregoing obligations and sets forth the methods for enforcing them. I expressly accept the provisions of that Executive Order as a part of this agreement and as binding on me. I understand that the obligations of this pledge are in addition to any statutory or other legal restrictions applicable to me by virtue of Government service.

Signature

_____, 20____
Date

Print or type your full name (last, first, middle)

The White House
Office of the Press Secretary
For Immediate Release
January 28, 2017

Executive Order: ETHICS COMMITMENTS BY EXECUTIVE BRANCH APPOINTEES

EXECUTIVE ORDER

- - - - -

ETHICS COMMITMENTS BY EXECUTIVE BRANCH APPOINTEES

By the authority vested in me as President of the United States by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, and sections 3301 and 7301 of title 5, United States Code, it is hereby ordered as follows:

Section 1. Ethics Pledge. Every appointee in every executive agency appointed on or after January 20, 2017, shall sign, and upon signing shall be contractually committed to, the following pledge upon becoming an appointee:

"As a condition, and in consideration, of my employment in the United States Government in an appointee position invested with the public trust, I commit myself to the following obligations, which I understand are binding on me and are enforceable under law:

"1. I will not, within 5 years after the termination of my employment as an appointee in any executive agency in which I am appointed to serve, engage in lobbying activities with respect to that agency.

"2. If, upon my departure from the Government, I am covered by the post-employment restrictions on communicating with employees of my former executive agency set forth in section 207(c) of title 18, United States Code, I agree that I will abide by those restrictions.

"3. In addition to abiding by the limitations of paragraphs 1 and 2, I also agree, upon leaving Government service, not to engage in lobbying activities with respect to any covered executive branch official or non-career Senior Executive Service appointee for the remainder of the Administration.

"4. I will not, at any time after the termination of my employment in the United States Government, engage in any activity on behalf of any foreign government or foreign political

party which, were it undertaken on January 20, 2017, would require me to register under the Foreign Agents Registration Act of 1938, as amended.

"5. I will not accept gifts from registered lobbyists or lobbying organizations for the duration of my service as an appointee.

"6. I will not for a period of 2 years from the date of my appointment participate in any particular matter involving specific parties that is directly and substantially related to my former employer or former clients, including regulations and contracts.

"7. If I was a registered lobbyist within the 2 years before the date of my appointment, in addition to abiding by the limitations of paragraph 6, I will not for a period of 2 years after the date of my appointment participate in any particular matter on which I lobbied within the 2 years before the date of my appointment or participate in the specific issue area in which that particular matter falls.

"8. I agree that any hiring or other employment decisions I make will be based on the candidate's qualifications, competence, and experience.

"9. I acknowledge that the Executive Order entitled 'Ethics Commitments by Executive Branch Appointees,' issued by the President on January 28, 2017, which I have read before signing this document, defines certain terms applicable to the foregoing obligations and sets forth the methods for enforcing them. I expressly accept the provisions of that Executive Order as a part of this agreement and as binding on me. I understand that the obligations of this pledge are in addition to any statutory or other legal restrictions applicable to me by virtue of Government service."

Sec. 2. Definitions. As used herein and in the pledge set forth in section 1 of this order:

(a) "Administration" means all terms of office of the incumbent President serving at the time of the appointment of an appointee covered by this order.

(b) "Appointee" means every full-time, non-career Presidential or Vice-Presidential appointee, non-career appointee in the Senior Executive Service (or other SES-type system), and appointee to a position that has been excepted from the competitive service by reason of being of a confidential or policymaking character (Schedule C and other positions excepted under comparable criteria) in an executive agency. It does not include any person appointed as a member of the Senior Foreign Service or solely as a uniformed service commissioned officer.

(c) "Covered executive branch official" shall have the definition set forth in the Lobbying Disclosure Act.

(d) "Directly and substantially related to my former employer or former clients" shall mean matters in which the appointee's former employer or a former client is a party or represents a party.

(e) "Executive agency" and "agency" mean "executive agency" as defined in section 105 of title 5, United States Code, except that the terms shall include the Executive Office of the President, the United States Postal Service, and the Postal Regulatory Commission, and excludes the Government Accountability Office. As used in paragraph 1 of the pledge, "executive agency" means the entire agency in which the appointee is appointed to serve, except that:

(1) with respect to those appointees to whom such designations are applicable under section 207(h) of title 18, United States Code, the term means an agency or bureau designated by the Director of the Office of Government Ethics under section 207(h) as a separate department or agency at the time the appointee ceased to serve in that department or agency; and

(2) an appointee who is detailed from one executive agency to another for more than 60 days in any calendar year shall be deemed to be an officer or employee of both agencies during the period such person is detailed.

(f) "Foreign Agents Registration Act of 1938, as amended" means sections 611 through 621 of title 22, United States Code.

(g) "Foreign government" means the "government of a foreign country," as defined in section 1(e) of the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. 611(e).

(h) "Foreign political party" has the same meaning as that term has in section 1(f) of the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. 611(f).

(i) "Former client" is any person for whom the appointee served personally as agent, attorney, or consultant within the 2 years prior to the date of his or her appointment, but excluding instances where the service provided was limited to a speech or similar appearance. It does not include clients of the appointee's former employer to whom the appointee did not personally provide services.

(j) "Former employer" is any person for whom the appointee has within the 2 years prior to the date of his or her appointment served as an employee, officer, director, trustee, or general partner, except that "former employer" does not include any executive agency or other entity of the Federal Government, State or local government, the District of Columbia, Native American tribe, or any United States territory or possession.

(k) "Gift"

(1) shall have the definition set forth in section 2635.203(b) of title 5, Code of Federal Regulations;

(2) shall include gifts that are solicited or accepted indirectly as defined at section 2635.203(f) of title 5, Code of Federal Regulations; and

(3) shall exclude those items excluded by sections 2635.204(b), (c), (e)(1) & (3), (j), (k), and (l) of title 5, Code of Federal Regulations.

(l) "Government official" means any employee of the executive branch.

(m) "Lobbied" shall mean to have acted as a registered lobbyist.

(n) "Lobbying activities" has the same meaning as that term has in the Lobbying Disclosure Act, except that the term does not include communicating or appearing with regard to: a judicial proceeding; a criminal or civil law enforcement inquiry, investigation, or proceeding; or any agency process for rulemaking, adjudication, or licensing, as defined in and governed by the Administrative Procedure Act, as amended, 5 U.S.C. 551 *et seq.*

(o) "Lobbying Disclosure Act" means sections 1601 *et seq.* of title 2, United States Code.

(p) "Lobbyist" shall have the definition set forth in the Lobbying Disclosure Act.

(q) "On behalf of another" means on behalf of a person or entity other than the individual signing the pledge or his or her spouse, child, or parent.

(r) "Particular matter" shall have the same meaning as set forth in section 207 of title 28, United States Code, and section 2635.402(b)(3) of title 5, Code of Federal Regulations.

(s) "Particular matter involving specific parties" shall have the same meaning as set forth in section 2641.201(h) of title 5, Code of Federal Regulations, except that it shall also include any meeting or other communication relating to the performance of one's official duties with a former employer or former client, unless the communication applies to a particular matter of general applicability and participation in the meeting or other event is open to all interested parties.

(t) "Participate" means to participate personally and substantially.

(u) "Pledge" means the ethics pledge set forth in section 1 of this order.

(v) "Post-employment restrictions" shall include the provisions and exceptions in section 207(c) of title 18, United States Code, and the implementing regulations.

(w) "Registered lobbyist or lobbying organization" shall mean a lobbyist or an organization filing a registration pursuant to section 1603(a) of title 2, United States Code, and in the case of an organization filing such a registration, "registered lobbyist" shall include each of the lobbyists identified therein.

(x) Terms that are used herein and in the pledge, and also used in section 207 of title 18, United States Code, shall be given the same meaning as they have in section 207 and any implementing regulations issued or to be issued by the Office of Government Ethics, except to the extent those terms are otherwise defined in this order.

(y) All references to provisions of law and regulations shall refer to such provisions as in effect on January 20, 2017.

Sec. 3. Waiver. (a) The President or his designee may grant to any person a waiver of any restrictions contained in the pledge signed by such person.

(b) A waiver shall take effect when the certification is signed by the President or his designee.

(c) A copy of the waiver certification shall be furnished to the person covered by the waiver and provided to the head of the agency in which that person is or was appointed to serve.

Sec. 4. Administration. (a) The head of every executive agency shall establish for that agency such rules or procedures (conforming as nearly as practicable to the agency's general ethics rules and procedures, including those relating to designated agency ethics officers) as are necessary or appropriate:

(1) to ensure that every appointee in the agency signs the pledge upon assuming the appointed office or otherwise becoming an appointee; and

(2) to ensure compliance with this order within the agency.

(b) With respect to the Executive Office of the President, the duties set forth in section 4(a) shall be the responsibility of the Counsel to the President or such other official or officials to whom the President delegates those duties.

(c) The Director of the Office of Government Ethics shall:

(1) ensure that the pledge and a copy of this Executive Order are made available for use by agencies in fulfilling their duties under section 4(a);

(2) in consultation with the Attorney General or Counsel to the President, when appropriate, assist designated agency ethics officers in providing advice to current or former appointees regarding the application of the pledge; and

(3) adopt such rules or procedures (conforming as nearly as practicable to its generally applicable rules and procedures) as are necessary or appropriate:

(i) to carry out the foregoing responsibilities;

(ii) to apply the lobbyist gift ban set forth in paragraph 5 of the pledge to all executive branch employees;

(iii) to authorize limited exceptions to the lobbyist gift ban for circumstances that do not implicate the purposes of the ban;

(iv) to make clear that no person shall have violated the lobbyist gift ban if the person properly disposes of a gift as provided by section 2635.206 of title 5, Code of Federal Regulations;

(v) to ensure that existing rules and procedures for Government employees engaged in negotiations for future employment with private businesses that are affected by their official actions do not affect the integrity of the Government's programs and operations; and

(vi) to ensure, in consultation with the Director of the Office of Personnel Management, that the requirement set forth in paragraph 8 of the pledge is honored by every employee of the executive branch;

(d) An appointee who has signed the pledge is not required to sign the pledge again upon appointment or detail to a different office, except that a person who has ceased to be an appointee, due to termination of employment in the executive branch or otherwise, shall sign the pledge prior to thereafter assuming office as an appointee.

(e) All pledges signed by appointees, and all waiver certifications with respect thereto, shall be filed with the head of the appointee's agency for permanent retention in the appointee's official personnel folder or equivalent folder.

Sec. 5. Enforcement. (a) The contractual, fiduciary, and ethical commitments in the pledge provided for herein are solely enforceable by the United States by any legally available means, including any or all of the following: debarment proceedings within any affected executive agency or civil judicial proceedings for declaratory, injunctive, or monetary relief.

(b) Any former appointee who is determined, after notice and hearing, by the duly designated authority within any agency, to have violated his or her pledge may be barred from engaging in lobbying activities with respect to that agency for up to 5 years in addition to the 5-year time period covered by the pledge. The head of every executive agency shall, in consultation with the Director of the Office of Government Ethics, establish procedures to implement this subsection, which shall include (but not be limited to) providing for factfinding and investigation of possible violations of this order and for referrals to the Attorney General for his or her consideration pursuant to subsection (c).

(c) The Attorney General or his or her designee is authorized:

(1) upon receiving information regarding the possible breach of any commitment in a signed pledge, to request any appropriate Federal investigative authority to conduct such investigations as may be appropriate; and

(2) upon determining that there is a reasonable basis to believe that a breach of a commitment has occurred or will occur or continue, if not enjoined, to commence a civil action on behalf of the United States against the former officer or employee in any United States District Court with jurisdiction to consider the matter.

(d) In such civil action, the Attorney General or his or her designee is authorized to request any and all relief authorized by law, including but not limited to:

(1) such temporary restraining orders and preliminary and permanent injunctions as may be appropriate to restrain future, recurring, or continuing conduct by the former officer or employee in breach of the commitments in the pledge he or she signed; and

(2) establishment of a constructive trust for the benefit of the United States, requiring an accounting and payment to the United States Treasury of all money and other things of value received by, or payable to, the former officer or employee arising out of any breach or attempted breach of the pledge signed by the former officer or employee.

Sec. 6. General Provisions. (a) This order supersedes Executive Order 13490 of January 21, 2009 (Ethics Commitments by Executive Branch Personnel), and therefore Executive Order 13490 is hereby revoked. No other prior Executive Orders are repealed by this order. To the extent that this order is inconsistent with any provision of any prior Executive Order, this order shall control.

(b) If any provision of this order or the application of such provision is held to be invalid, the remainder of this order and other dissimilar applications of such provision shall not be affected.

(c) The pledge and this order are not intended to, and do not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party (other than by the United States) against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) The definitions set forth in this order are solely applicable to the terms of this order, and are not otherwise intended to impair or affect existing law.

(e) Nothing in this order shall be construed to impair or otherwise affect:

(1) the authority granted by law to an executive department, agency, or the head thereof; or

(2) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(f) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

DONALD J. TRUMP

To: Bolen, Brittany[bolen.brittany@epa.gov]
Cc: Fugh, Justina[Fugh.Justina@epa.gov]; Brown, Byron[brown.byron@epa.gov]; Jackson, Ryan[jackson.ryan@epa.gov]
From: Gunasekara, Mandy
Sent: Fri 4/14/2017 8:14:42 PM
Subject: Re: possible recusal issue for you?

Also I would add that the brief represented congress's view of the CPP based on publicly available information. We were not privy to any confidential material regarding the litigation.

Sent from my iPhone

On Apr 14, 2017, at 3:41 PM, Bolen, Brittany <bolen.brittany@epa.gov> wrote:

Mandy and I would like your clarification in regards to WV v. EPA. We were not privy to any confidential information. The amicus brief was written and filed by an outside law firm on behalf of members of congress, not the Environment and Public Works Committee.

From: Fugh, Justina
Sent: Friday, April 14, 2017 3:32 PM
To: Brown, Byron <brown.byron@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>
Subject: RE: possible recusal issue for you?

Thanks for the confirmation!

From: Brown, Byron
Sent: Friday, April 14, 2017 3:30 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>
Subject: RE: possible recusal issue for you?

I did not work on these amicus briefs and was not privy to confidential information about these cases or briefs.

From: Fugh, Justina
Sent: Friday, April 14, 2017 3:11 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Brown, Byron <brown.byron@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>
Subject: possible recusal issue for you?

Hi there,

I have learned that DOJ is advising that some of their appointees recuse from certain cases in which members of Congress filed amicus briefs during the last several years. Their appointees have recused from any participation in these cases:

- ☐ Kent Recycling Services v. US Army Corps of Engineers, U.S. Supreme Court, No. 14-493
- ☐ American Farm Bureau Fed. v. USEPA, Third Circuit Court of Appeals, No. 13-4079 (docket attached)
- ☐ West Virginia v. EPA (see Brief of 200+ members of Congress)

What I don't know is whether you all, who also worked for the Senate in the last several years, should similarly be recused. Did you work on or were privy to confidential client information with respect to any of these cases?

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

To: Fugh, Justina[Fugh.Justina@epa.gov]; Brown, Byron[brown.byron@epa.gov]; Jackson, Ryan[jackson.ryan@epa.gov]; Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]
From: Bolen, Brittany
Sent: Fri 4/14/2017 7:41:04 PM
Subject: RE: possible recusal issue for you?

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To: Jackson, Ryan[jackson.ryan@epa.gov]
From: Fugh, Justina
Sent: Thur 5/18/2017 1:07:05 AM
Subject: Reminder about your new entrant report

Dear Ryan,

I am writing to remind you about your obligation to file a new entrant public financial disclosure report by 6/26/17. We cannot grant you any more extensions of time but there is a 30 day grace period following the end of your deadline. However, if EPA Ethics does not receive your final report by midnight of July 26, 2017, then you will be subject to a \$200 late filing fee. You will of course still have to file the report too!

If you have any questions regarding this requirement or need assistance, please contact Dan Fort at fort.daniel@epa.gov or 202 564 2200 or me at fugh.justina@epa.gov or 202 564 1786.

Thanks,
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

To: Jackson, Ryan[jackson.ryan@epa.gov]
From: Fugh, Justina
Sent: Wed 5/3/2017 12:37:25 AM
Subject: RE: Integrity.gov: Past Due Reminder

Hi there,

I've given you the maximum extension, so your report is due 6/26/17. The easiest thing to do is to schedule a "house call" with Daniel Fort of OGC/Ethics so he can walk you through the electronic access. Or you can review the chatty email below. Let me know, by the way, if you want an update of the rest of the AD/politicals and how they, too, are not getting their new entrant reports done. Sigh.

Justina

From: Fugh, Justina
Sent: Thursday, February 23, 2017 4:16 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Daniel Fort <Fort.Daniel@epa.gov>
Subject: Your ethics obligations in your new position

Hi there,

Welcome to the wonderful world of public financial disclosure reporting in the executive branch! Now that you are sworn in as an EPA employee to serve as the Chief of Staff (in a non-career SES appointment), you are required by the Ethics in Government Act of 1978 to file the Office of Government Ethics Form 278, Public Financial Disclosure Report. Congratulations! Your "new entrant" report is due no later than 30 days from the date you started, which I believe was 2/21/17. We will set your due date 30 days from now.

EPA uses an entirely electronic filing system this year (called INTEGRITY.gov or INTEGRITY), so you must file the form (called the OGE 278e) electronically. You are required by law to complete the form, which will help me determine whether you have any financial conflicts of interest or other ethics concerns. Please don't disregard this requirement; in fact,

failure to complete the form timely can result in a \$200 late filing fee, and may also result in criminal or civil penalties.

There are several important things to know about the OGE-278e: (1) it is a public form (which means that anyone can ask for a copy of your form, but Congress repealed the requirement for public posting to the internet); (2) you have to fill it out every year you are in this position; (3) when you leave the position, you will have to file a termination report; and (4) you will be subject to a late filing fee of \$200 for not filing your report timely, and there are also civil and criminal penalties for failure to file at all or for inaccurate reporting.

THE FINANCIAL DISCLOSURE REPORT, OGE-278e

Later today, Dan Fort (copied here, one of my OGC/Ethics colleagues) will create an account for you in INTEGRITY, which is the electronic filing system operated and secured by the Office of Government Ethics (OGE). You will be assigned a “new entrant” report with the EPA’s business address already included. Do not enter your personal home address in that place. Your filer category is “other.” For help in INTEGRITY, check out the information on the OGC/Ethics website at <http://intranet.epa.gov/ogc/Integrity/Landingpage.html>.

Once you receive the email from INTEGRITY.gov that will provide you with specific instructions, log into the federal government’s max.gov site, the gateway to INTEGRITY. If you don’t receive your account notification within three days, then please check your clutter box for messages from INTEGRITY.gov, or contact Dan Fort so that we can follow up.

DEADLINE FOR SUBMITTING THE FORM

INTEGRITY will give you 30 days to complete the form. If you need additional time, you must contact me directly before your due date. There is a limit to how much additional time we can give you before late fees kick in, so please pay attention to this requirement.

HELPFUL HINTS FOR FILLING OUT THE FORM

- This is a wretched and exacting form.
- You will get three different places to report assets: filer’s employment-related assets and income, spouse’s employment related assets and income, and other assets and income. So you

are reporting the assets for yourself, your spouse and your dependent children. We don't really care where you report your assets, just that you do report them all someplace.

- You must include any investment asset that is worth more than \$1000. Include any income from any source that exceeded \$200 during the reporting period (including outside jobs or hobbies, rental income). Include any cash/savings accounts that have more than \$5000.
- Enter each asset separately. Don't lump items together on one line. Be sure to provide the valuation of the asset AND the amount of the income. For assets that aren't mutual funds, you also have to report the type of income (e.g., dividends, cap gains).
- For 401(k) or IRA plans, provide the name of each of the underlying assets. Don't just write "Vanguard IRA" or "mutual fund." You must specify each asset separately and give the valuation and amount of accrued investment income. The definition of "investment income" is NOT tied to what's taxable! You must report accrued income, even if tax deferred or exempt, that you got in the asset over the reporting period (which is last calendar year + this calendar year, up to the date of filing). Look at 1099 forms for the accrued income from investments or review your statements.
- Do not report your federal salary, your spouse's federal salary, or Thrift Savings Plan
- But if you (not your spouse) have any earned income (e.g., outside job, paid pension), you have to report the actual amount of that income.
- But if your spouse works outside of federal service, then include your spouse's employer but not the amount of your spouse's salary. If you are not legally married, do not report your significant other's employer.
- Don't forget to include any life insurance policies (whole life or variable life) as well as the underlying investments, but do not report term life insurance.
- If you have nothing to report in a section, be sure to click the "nothing to report" button

OTHER ETHICS REQUIREMENTS FOR YOU

STOCK ACT

Because you are required to file the form, you are also now subject to the STOCK Act. You are required to report any purchase, sale or exchange of stocks, bonds, commodities futures or other forms of securities when the amount of the transaction exceeds \$1000. Use INTEGRITY to disclose reportable transactions within 30 days of receiving notification of the transaction, but not later than 45 days after the transaction occurs. You will have to report transactions that occur within brokerage accounts, managed accounts, or other investment vehicles that you own

or jointly own with your spouse or another person, as well as transactions of your spouse or dependent children. For a comprehensive review of reportable transactions, see EPA Ethics Advisory 2012-03 at http://intranet.epa.gov/ogc/ethics/Ethics_Advisory_2012-03.pdf and our revised chart, also attached.

HATCH ACT

You will be “lesser restricted” under the Hatch Act. Please familiarize yourself with the Hatch Act as it affects you, and from the EPA intranet, can gain a good overview by reviewing our online training course at <http://intranet.epa.gov/ogcrmo01/ethics.htm> or by referring to our attached handy chart that reminds you of your restrictions.

-

CONTACTS

Dan Fort, Jeanne Duross or I will be happy to help you with your 278e form. We can be reached at ethics@epa.gov or individually at:

Jeanne Duross, Ethics Attorney, duross.jeanne@epa.gov or 202-564-6595

Daniel Fort, Ethics Officer, fort.daniel@epa.gov or 202-564-2200

Justina Fugh, Senior Counsel for Ethics, fugh.justina@epa.gov or 202-564-1786

Cheers,

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786

-----Original Message-----

From: Jackson, Ryan

Sent: Tuesday, May 02, 2017 7:40 AM

To: Fugh, Justina <Fugh.Justina@epa.gov>

Subject: RE: Integrity.gov: Past Due Reminder

How can I do that?

-----Original Message-----

From: Fugh, Justina

Sent: Tuesday, May 2, 2017 7:40 AM

To: Jackson, Ryan <jackson.ryan@epa.gov>

Subject: Re: Integrity.gov: Past Due Reminder

This is a reminder that you haven't filed your new entrant financial disclosure report.

Sent from my iPhone

> On May 1, 2017, at 11:23 PM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:

>

> Can I get information on what this is?

>

> -----Original Message-----

> From: Integrity.gov [<mailto:notifications@integrity.gov>]

> Sent: Monday, May 1, 2017 8:28 PM

> To: Jackson, Ryan <jackson.ryan@epa.gov>

> Subject: Integrity.gov: Past Due Reminder

>

> This notice is a reminder that your 2017 New Entrant report was due on 03/27/2017. You may access the report by logging into Integrity at <https://integrity.gov>. If you have any questions concerning filling out of the report, send a note to ethics@epa.gov and we'll get back to you within 48 hours. (Note: The Office of Government Ethics extended the filing deadline fro annual reports from May 16 to May 25.)

-----Original Message-----

From: Jackson, Ryan
Sent: Tuesday, May 02, 2017 7:40 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: Integrity.gov: Past Due Reminder

How can I do that?

-----Original Message-----

From: Fugh, Justina
Sent: Tuesday, May 2, 2017 7:40 AM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Subject: Re: Integrity.gov: Past Due Reminder

This is a reminder that you haven't filed your new entrant financial disclosure report.

Sent from my iPhone

> On May 1, 2017, at 11:23 PM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:

>

> Can I get information on what this is?

>

> -----Original Message-----

> From: Integrity.gov [<mailto:notifications@integrity.gov>]

> Sent: Monday, May 1, 2017 8:28 PM

> To: Jackson, Ryan <jackson.ryan@epa.gov>

> Subject: Integrity.gov: Past Due Reminder

>

> This notice is a reminder that your 2017 New Entrant report was due on 03/27/2017. You may access the report by logging into Integrity at <https://integrity.gov>. If you have any questions concerning filling out of the report, send a note to ethics@epa.gov and we'll get back to you within 48 hours. (Note: The Office of Government Ethics extended the filing deadline for annual reports from May 16 to May 25.)

To: Jackson, Ryan[jackson.ryan@epa.gov]
Cc: Ryan Jackson[**Ex. 6 - Personal Privacy**]
From: Fugh, Justina
Sent: Thur 4/27/2017 2:19:24 AM
Subject: RE: Ducks Unlimited Reception May 1

Hi there,

For this invitation, one of the co-sponsors is (believe it or not) a federally registered lobbyist. But even though Ducks Unlimited is a federally registered lobbyist, it is also a 501(c)(3), so the usual prohibition about gifts from federally registered lobbyists doesn't apply. So we can apply the usual widely attended gathering analysis to this situation. I determine that this event does in fact qualify as a widely attended gathering pursuant to 5 CFR 2635.204(g). There will be a diversity of interests present at the event, more than 25 people will be in attendance, and I determine that there is an agency interest in your attendance. You and the Administrator may attend this event and will not be required to report the gift on your financial disclosure report (it will be below the reporting threshold).

Justina

PS – Well, I have been known to eat duck. Does that count?

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the
zip code) | phone 202-564-1786 | fax 202-564-1772

From: Ryan Jackson [mailto:[**Ex. 6 - Personal Privacy**]]
Sent: Wednesday, April 26, 2017 2:32 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Fwd: Ducks Unlimited Reception May 1

The administrator and I would like to attend this too.

We like ducks.

Ryan Jackson

(b) (6)

Begin forwarded message:

From: Margaret Everson <meverson@ducks.org>
Date: April 26, 2017 at 2:09:25 PM EDT
To: Ryan Jackson <[Ex. 6 - Personal Privacy](#)>
Subject: FW: Ducks Unlimited Reception May 1

Ryan,

With all your spare time, will you be able to join us in the festivities?

Best,

Margaret

To: Jackson, Ryan[jackson.ryan@epa.gov]
From: Fugh, Justina
Sent: Thur 4/20/2017 8:56:09 PM
Subject: as requested

Hi there,

Here is the guidance from the Office of Government Ethics (OGE): [Legal Advisory 17-03 \(3/20/17\)](#). It includes an example of how to apply the “specific issue area” language for a former lobbyist:

An appointee was a registered lobbyist during the two-year period before she entered government. In that capacity, she lobbied her agency against a proposed regulation focused on a specific industry. Her lobbying was limited to a specific section of the regulation affecting her client. Her recusal obligation as an appointee is not limited to the section of the regulation on which she lobbied, nor is it limited to the application of the regulation to her former client. Instead, she must recuse for two years from development and implementation of the entire regulation, subsequent interpretation of the regulation, and application of the regulation in individual cases.

This example does not address what to do if:

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

To: Jackson, Ryan[jackson.ryan@epa.gov]
From: Fugh, Justina
Sent: Fri 4/7/2017 5:21:46 PM
Subject: FW: Ethics Reminders for EPA Employees -- please distribute
[Which lane are you in-official v personal capacity.pdf](#)
[Reminder about Hatch Act rules.pdf](#)

As we discussed

From: Fugh, Justina
Sent: Friday, February 03, 2017 6:00 PM
To: OGC National Ethics Officials <OGC_National_Ethics_Officials@epa.gov>
Subject: Ethics Reminders for EPA Employees -- please distribute

Dear ethics colleagues,

Lately, we have received questions about how to advise employees who wonder about the possible ethical implications of sharing their personal opinions, including on matters that relate to EPA, in social media. This message is written so that you may share it directly with your staff (in the message, the “you” refers to EPA employees). Please distribute the message below (including the two attachments), as is, to your employees as soon as possible. If you have any questions about this reminder, please feel free to contact me.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the
zip code) | phone 202-564-1786 | fax 202-564-1772

FROM
OGC/ETHICS

February 3, 2017

ETHICS REMINDERS FOR EPA EMPLOYEES

Many EPA employees have inquired about the possible ethical implications of sharing your personal opinions on science, policy or politics, particularly in social media. You as a United States citizen are free to express yourself about matters that are important to you, including ones that relate to EPA. Your ability to express yourself includes doing so in the workplace and in personal social media. But, when you do express yourself in the workplace or EPA (which *is* your workplace), there are three things you should bear in mind: the federal ethics rules continue to apply to you as they always have; the rules depend on whether you are speaking in your official EPA capacity or your individual personal capacity; and your expression of your views in the workplace needs to comply with agency orders prohibiting conduct that is “abusive or offensive,” or that constitutes harassment.

Understanding the Ethics Rules

-

While you may express yourself, please remember that you can’t misuse your federal position when doing so. We want to help ensure you understand every employee’s ethics obligations while being clear that we are not limiting or expanding your ability to act or communicate, nor taking any position in support of or against such actions or communications. This message explains the ethics rules you should consider when you speak or write or otherwise express your opinions.

Let’s start with the basics. The ethics rules have not changed because we have a new Administration. We, as EPA employees, are still bound by the [Hatch Act](#) and the [Standards of Ethical Conduct for Employee of the Executive Branch](#), and the [conflict of interest statutes](#). The ethics rules do not change depending on the type of forum. The same rules about [misuse of position](#), EPA’s [limited personal use policy](#), [fundraising](#) and the [Hatch Act](#) apply to your use of social media, tweeting or blogging as they do to non-virtual, more traditional forms of communication.

Understanding the Capacity In Which You Are Acting

-

In terms of ethics rules, we view any activity in one of two ways: either you are acting in your *OFFICIAL EPA* capacity, or you are acting in your *INDIVIDUAL PERSONAL* capacity. There is no in-between, no “professional” capacity category. It’s either official duty or individual personal capacity.

When speaking or writing, including blogging and in social media, you should be clear in what capacity you are communicating. We liken it to staying in your designated lane when driving: you can be in one lane of the highway or the other, and you can also switch lanes, but don’t straddle the dotted line or weave back and forth. The safest drivers stay in the middle of their designated lane and signal appropriately when they are changing lanes. It’s the same with ethics. The ethical employee knows and makes clear to others when she is acting in her official capacity versus her personal capacity.

Typically, an activity is undertaken in OFFICIAL CAPACITY when it is consistent with statutory authority and Agency or office mission and assigned duties. When working in your official capacity, you can use EPA time and resources, including EPA email address, EPA phone number, EPA equipment and property and, if applicable, subordinates. To participate in INDIVIDUAL PERSONAL CAPACITY, we urge you not to use your EPA email address or contact information and, if possible, not refer to EPA position or title. If you feel you must refer to your EPA position or title, then the prudential advice is to do so as one of several biographical details with EPA not having any undue prominence. You should be clear you are expressing an individual personal opinion, not speaking on behalf of the Agency. While the agency does have a limited personal use policy that allows some personal use of EPA equipment such as computers, if expressing a personal opinion publicly on a subject, it is safest to avoid the use of EPA equipment.

Understanding Some Limits on Conduct

Displaying offensive materials or engaging in conversations that constitute “abusive or offensive language, gestures, or other conduct” as listed in [EPA Order 3120.1](#) is prohibited. Harassment based on conduct that is threatening, intimidating, and/or bullying will not be tolerated, per [EPA Order 4711](#).

For Those Who Want to Know More

To assist you in navigating the ethics and Hatch Act rules that apply to communications, whether in personal or official capacity, we created a couple of charts. We hope they help guide you to stay in the correct ethics “lane.” Treat your fellow employees with the dignity and respect we all deserve and to stay committed to and focused on our core mission, protecting human health and the environment. As always, if you have an ethics question, please don’t hesitate to contact the OGC Ethics team, your regional ethics counsel or your [Deputy Ethics Official](#). To reach OGC Ethics, send an email to ethics@epa.gov.

To: Jackson, Ryan[jackson.ryan@epa.gov]
From: Fugh, Justina
Sent: Tue 3/7/2017 4:58:28 PM
Subject: REMINDER: You need to sign the Trump ethics pledge
[P45 Executive Order.pdf](#)
[P45 Ethics Pledge blank.pdf](#)

Hi there,

On January 28, 2017, President Donald J. Trump issued an Executive Order on Ethics Commitments for all political appointees in his administration that contains additional restrictions during and after your federal service. You are required to sign this pledge, which I have attached together with the executive order itself. Please print out the pledge and then sign and date it, then return to me, either in hard copy or by pdf. The significant points of the Executive Order are as follows:

If you were a federally registered lobbyist in the previous 2 years --

- For the next 2 years, you will not participate in any particular matter on which you lobbied within the previous 2 years and you will not participate in the specific issue area in which that particular matter falls.

While you are a federal employee --

- You will not accept any gifts from a registered lobbyist, including attendance at a widely attended gathering. There are a few exceptions, so ask an ethics official for guidance.
- For 2 years from the date of your appointment, you will not participate in any particular matter involving specific parties that is directly and substantially related to your former employer or former client(s), including regulations and contracts; and
- Any hiring or other employment decisions you make will be based on the candidate's qualifications, competence and experience.

After you leave federal service --

- For 5 years, you will not engage in any lobbying activities with respect to the agency in which you were appointed to serve;
- For the remainder of the Administration, you will not engage in lobbying activities with respect to any covered executive branch official or non-career SES employee; and
- For the rest of your life, you will not engage in any activity on behalf of a foreign government or foreign political party as their "agent" requiring registration under the

Foreign Agents Registration Act of 1938 and defined at 22 U.S.C. § 611(c) (as those terms were defined as of 1/20/17).

Finally, you agree that the terms of the ethics pledge are binding upon you.

Thanks in advance for your attention to this important matter.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

To: Jackson, Ryan[jackson.ryan@epa.gov]
Cc: Daniel Fort[Fort.Daniel@epa.gov]
From: Fugh, Justina
Sent: Thur 2/23/2017 9:15:48 PM
Subject: Your ethics obligations in your new position
Distinctions between Reporting Transactions on the OGE 278 - January 201....docx
Hatch Act chart February 2017.docx

Hi there,

Welcome to the wonderful world of public financial disclosure reporting in the executive branch! Now that you are sworn in as an EPA employee to serve as the Chief of Staff (in a non-career SES appointment), you are required by the Ethics in Government Act of 1978 to file the Office of Government Ethics Form 278, Public Financial Disclosure Report. Congratulations! Your "new entrant" report is due no later than 30 days from the date you started, which I believe was 2/21/17. We will set your due date 30 days from now.

EPA uses an entirely electronic filing system this year (called INTEGRITY.gov or INTEGRITY), so you must file the form (called the OGE 278e) electronically. You are required by law to complete the form, which will help me determine whether you have any financial conflicts of interest or other ethics concerns. Please don't disregard this requirement; in fact, failure to complete the form timely can result in a \$200 late filing fee, and may also result in criminal or civil penalties.

There are several important things to know about the OGE-278e: (1) it is a public form (which means that anyone can ask for a copy of your form, but Congress repealed the requirement for public posting to the internet); (2) you have to fill it out every year you are in this position; (3) when you leave the position, you will have to file a termination report; and (4) you will be subject to a late filing fee of \$200 for not filing your report timely, and there are also civil and criminal penalties for failure to file at all or for inaccurate reporting.

THE FINANCIAL DISCLOSURE REPORT, OGE-278e

Later today, Dan Fort (copied here, one of my OGC/Ethics colleagues) will create an account for you in INTEGRITY, which is the electronic filing system operated and secured by the Office of Government Ethics (OGE). You will be assigned a "new entrant" report with the EPA's business address already included. Do not enter your personal home address in that place. Your filer category is "other." For help in INTEGRITY, check out the information on the OGC/Ethics website at <http://intranet.epa.gov/ogc/Integrity/Landingpage.html>.

Once you receive the email from INTEGRITY.gov that will provide you with specific instructions, log into the federal government's max.gov site, the gateway to INTEGRITY. If you don't receive your account notification within three days, then please check your clutter box for messages from INTEGRITY.gov, or contact Dan Fort so that we can follow up.

DEADLINE FOR SUBMITTING THE FORM

INTEGRITY will give you 30 days to complete the form. If you need additional time, you must contact me directly before your due date. There is a limit to how much additional time we can give you before late fees kick in, so please pay attention to this requirement.

HELPFUL HINTS FOR FILLING OUT THE FORM

- This is a wretched and exacting form.
- You will get three different places to report assets: filer's employment-related assets and income, spouse's employment related assets and income , and other assets and income. So you are reporting the assets for yourself, your spouse and your dependent children. We don't really care where you report your assets, just that you do report them all someplace.
- You must include any investment asset that is worth more than \$1000. Include any income from any source that exceeded \$200 during the reporting period (including outside jobs or hobbies, rental income). Include any cash/savings accounts that have more than \$5000.
- Enter each asset separately. Don't lump items together on one line. Be sure to provide the valuation of the asset AND the amount of the income. For assets that aren't mutual funds, you also have to report the type of income (e.g., dividends, cap gains).
- For 401(k) or IRA plans, provide the name of each of the underlying assets. Don't just write "Vanguard IRA" or "mutual fund." You must specify each asset separately and give the valuation and amount of accrued investment income. The definition of "investment income" is NOT tied to what's taxable! You must report accrued income, even if tax deferred or exempt, that you got in the asset over the reporting period (which is last calendar year + this calendar year, up to the date of filing). Look at 1099 forms for the accrued income from investments or review your statements.
- Do not report your federal salary, your spouse's federal salary, or Thrift Savings Plan
- But if you (not your spouse) have any earned income (e.g., outside job, paid

pension), you have to report the actual amount of that income.

- But if your spouse works outside of federal service, then include your spouse's employer but not the amount of your spouse's salary. If you are not legally married, do not report your significant other's employer.
- Don't forget to include any life insurance policies (whole life or variable life) as well as the underlying investments, but do not report term life insurance.
- If you have nothing to report in a section, be sure to click the "nothing to report" button

OTHER ETHICS REQUIREMENTS FOR YOU

STOCK ACT

Because you are required to file the form, you are also now subject to the STOCK Act. You are required to report any purchase, sale or exchange of stocks, bonds, commodities futures or other forms of securities when the amount of the transaction exceeds \$1000. Use INTEGRITY to disclose reportable transactions within 30 days of receiving notification of the transaction, but not later than 45 days after the transaction occurs. You will have to report transactions that occur within brokerage accounts, managed accounts, or other investment vehicles that you own or jointly own with your spouse or another person, as well as transactions of your spouse or dependent children. For a comprehensive review of reportable transactions, see EPA Ethics Advisory 2012-03 at http://intranet.epa.gov/ogc/ethics/Ethics_Advisory_2012-03.pdf and our revised chart, also attached.

HATCH ACT

You will be "lesser restricted" under the Hatch Act. Please familiarize yourself with the Hatch Act as it affects you, and from the EPA intranet, can gain a good overview by reviewing our online training course at <http://intranet.epa.gov/ogcrmo01/ethics.htm> or by referring to our attached handy chart that reminds you of your restrictions.

-

CONTACTS

Dan Fort, Rich Lumley, Jeanne Duross or I will be happy to help you with your 278e form. We can be reached at ethics@epa.gov or individually at:

Jeanne Duross, Ethics Attorney, duross.jeanne@epa.gov or 202-564-6595

Daniel Fort, Ethics Officer, fort.daniel@epa.gov or 202-564-2200

Justina Fugh, Senior Counsel for Ethics, fugh.justina@epa.gov or 202-564-1786

Rich Lumley, Ethics Officer, lumley.rich@epa.gov or 202-564-1453

Cheers,

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the
zip code) | phone 202-564-1786 | fax 202-564-1772

From: Fugh, Justina
Location: WJC-N 4308
Importance: Normal
Subject: Accepted: Ethics Training with Ryan Jackson, Chief of Staff
Start Date/Time: Wed 2/22/2017 3:00:00 PM
End Date/Time: Wed 2/22/2017 4:00:00 PM

To: Fugh, Justina[Fugh.Justina@epa.gov]
From: Jackson, Ryan
Sent: Tue 6/27/2017 10:36:46 AM
Subject: Re: Good for you!

(b) (6)

(b) (6)

so I

wanted to report it.

Ryan Jackson
Chief of Staff
U.S. EPA
(202) 564-6999

On Jun 26, 2017, at 10:55 PM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:

(b) (6)

(b) (6)

I'll get you (b) (6)
like that.

Something

Ryan Jackson
Chief of Staff
U.S. EPA
(202) 564-6999

On Jun 26, 2017, at 5:15 PM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

Thanks for submitting your new entrant report! I have one question for you: which

Ex. 6 - Personal Privacy

We need the exact name, please. Also,
please confirm that:

Ex. 6 - Personal Privacy

Ex. 6 - Personal Privacy

that need to be
reported.

Rather than send the form back to you, if you can just answer the question and confirm that you have nothing else to report, I'll make the change for you and then certify your report. That will save you some time. The only other edits I made was to add "Senator James M. Inhofe, US Senate" to your Chief of Staff position, and to spell

out Senate Environment and Public Works Committee to your Staff Director position.

Thanks,
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A |
Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground
deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772



ETHICS PLEDGE

As a condition, and in consideration, of my employment in the United States Government in an appointee position invested with the public trust, I commit myself to the following obligations, which I understand are binding on me and are enforceable under law:

1. I will not, within 5 years after the termination of my employment as an appointee in any executive agency in which I am appointed to serve, engage in lobbying activities with respect to that agency.
2. If, upon my departure from the Government, I am covered by the post-employment restrictions on communicating with employees of my former executive agency set forth in section 207(c) of title 18, United States Code, I agree that I will abide by those restrictions.
3. In addition to abiding by the limitations of paragraphs 1 and 2, I also agree, upon leaving Government service, not to engage in lobbying activities with respect to any covered executive branch official or non-career Senior Executive Service appointee for the remainder of the Administration.
4. I will not, at any time after the termination of my employment in the United States Government, engage in any activity on behalf of any foreign government or foreign political party which, were it undertaken on January 20, 2017, would require me to register under the Foreign Agents Registration Act of 1938, as amended.
5. I will not accept gifts from registered lobbyists or lobbying organizations for the duration of my service as an appointee.
6. I will not for a period of 2 years from the date of my appointment participate in any particular matter involving specific parties that is directly and substantially related to my former employer or former clients, including regulations and contracts.
7. If I was a registered lobbyist within the 2 years before the date of my appointment, in addition to abiding by the limitations of paragraph 6, I will not for a period of 2 years after the date of my appointment participate in any particular matter on which I lobbied within the 2 years before the date of my appointment or participate in the specific issue area in which that particular matter falls.
8. I agree that any hiring or other employment decisions I make will be based on the candidate's qualifications, competence, and experience.
9. I acknowledge that the Executive Order entitled "Ethics Commitments by Executive Branch Appointees," issued by the President on January 28, 2017, which I have read before signing this document, defines certain terms applicable to the foregoing obligations and sets forth the methods for enforcing them. I expressly accept the provisions of that Executive Order as a part of this agreement and as binding on me. I understand that the obligations of this pledge are in addition to any statutory or other legal restrictions applicable to me by virtue of Government service.

Signature

Date

Jackson, Ryan Thomas
Print or type your full name (last, first, middle)

Ryan Jackson OA



Certified by: Justina Fugh
Certificate Dated: 02/24/2017
Certificate ID Number: JFUH-AJVSTD
Full Organization: OA

According to the EPA Domino Directory.
Contact your local Help Desk if this
organizational information is not correct.

From: [Fugh, Justina](#)
To: [Ryan Jackson](#); [Jackson, Ryan](#)
Cc: [Keith, Jennie](#)
Subject: RE: Ducks Unlimited Reception May 1
Date: Monday, May 01, 2017 3:55:00 PM

Hi there,

Troy had asked me a similar question and sent me his actual invitation. I could see that his invitation came from DU, but they also volunteered that Shell has asked Troy to sit with them. Like API, Shell is indeed a federally registered lobbyist, so I included the following paragraph in my answer to Troy. This advice applies to you and the Administrator as well. You can still go to the event, which I've cleared as a widely attended gathering because DU is both a federally registered lobbyist but also a 501(c)(3).

BUT (and this is super important), you need to let Ducks Unlimited know they should place you at their election, not in answer to a request of any particular entity (such as [API], which is a federally registered lobbyist). You can say that you will go, but that DU should place you wherever DU wants, not at the request of someone else.

Provided that the invitation to you and the Administrator comes directly from DU, then you still don't have to report the gift on your financial disclosure report. If you give me the contact information for the DU person, I can explain our ethics rules to them so that they don't inadvertently place any of the EPA political appointees in a tough spot. Also, I need for DU to understand that the Administrator cannot assist in any fundraising for DU.

I've copied Jennie Keith of OGC/Ethics on this note as she is the person who works most frequently with the scheduling staff on the Administrator's invitations. She may have some additional insights as well.

Cheers,
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Ryan Jackson (b) (6)
Sent: Sunday, April 30, 2017 3:30 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Re: Ducks Unlimited Reception May 1

one more question, they have a reception but they have a dinner too.

API has invited me to sit with their table which means they have paid DU whatever they pay to get the table. I'm not sure if they still are, but I think API is a big lobbying organization (I thought you might appreciate that humor). May I join them for dinner or simply attend the reception and leave or reimburse someone for the amount of the dinner? So many questions, I know.

On Wed, Apr 26, 2017 at 10:19 PM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

Hi there,

For this invitation, one of the co-sponsors is (believe it or not) a federally registered lobbyist. But even though Ducks Unlimited is a federally registered lobbyist, it is also a 501(c)(3), so the usual prohibition about gifts from federally registered lobbyists doesn't apply. So we can apply the usual widely attended gathering analysis to this situation. I determine that this event does in fact qualify as a widely attended gathering pursuant to 5 CFR 2635.204(g). There will be a diversity of interests present at the event, more than 25 people will be in attendance, and I determine that there is an agency interest in your attendance. You and the Administrator may attend this event and will not be required to report the gift on your financial disclosure report (it will be below the reporting threshold).
Justina

PS – Well, I have been known to eat duck. Does that count?

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone [202-564-1786](tel:202-564-1786) | fax [202-564-1772](tel:202-564-1772)

From: Ryan Jackson (b) (6)
Sent: Wednesday, April 26, 2017 2:32 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Fwd: Ducks Unlimited Reception May 1

The administrator and I would like to attend this too.

We like ducks.

Ryan Jackson
(b) (6)

Begin forwarded message:

From: Margaret Everson <meverson@ducks.org>
Date: April 26, 2017 at 2:09:25 PM EDT
To: Ryan Jackson <(b) (6)>
Subject: FW: Ducks Unlimited Reception May 1

Ryan,

With all your spare time, will you be able to join us in the festivities?

Best,

Margaret

When to Report Transactions

This table's guidance is effective beginning January 1, 2013 and for informational purposes only. Email ethics@epa.gov for specific questions.

	Periodic Transaction Report	Annual and/or Termination Report
Investment Assets	Report on the OGE 278-T?	Report on the OGE 278?
Transactions of \$1,000 or less		
• Any asset in which the transaction amount is \$1,000 or less regardless of the type of asset or who owns the asset	No	No
Your investment assets (or jointly held)		
• Your stocks	Yes	Yes
• Your bonds (except U.S. Treasury securities)	Yes	Yes
• Your commodity futures	Yes	Yes
• Your other investment securities	Yes	Yes
• Assets listed above in your (joint) brokerage accounts, (joint) managed accounts, IRAs, other retirement accounts, and/or other (joint) investment vehicles	Yes	Yes
Your spouse's investment assets		
• Spouse's stocks	Yes	Yes
• Spouse's bonds (except U.S. Treasury securities)	Yes	Yes
• Spouse's commodity futures	Yes	Yes
• Spouse's other investment securities	Yes	Yes
• Assets listed above in spouse's <u>own</u> brokerage account, managed accounts, IRAs, other retirement accounts, and/or other investment vehicles	Yes	Yes
Your dependent child's investment assets		
• Dependent child's stocks	Yes	Yes
• Dependent child's bonds (except U.S. Treasury securities)	Yes	Yes
• Dependent child's commodity futures	Yes	Yes
• Dependent child's other investment securities	Yes	Yes
• Assets listed above in dependent child's <u>own</u> brokerage account, IRAs, and/or other investment vehicles	Yes	Yes
Other investment assets irrespective of ownership		
• Real Property	No	Yes ¹
• Mutual funds, exchange traded funds, index funds and/or other "excepted investment funds" ²	No	Yes
• Any asset in which the transaction amount is \$1,000 or less	No	No
• Cash accounts (deposits and/or withdrawals)	No	No
• Money market accounts	No	No
• Money market funds	No	No
• Certificates of deposits	No	No
• US Treasury Securities (e.g., T bills, Treasury bonds, U.S. savings bonds)	No	No
• Federal Government Retirement Accounts (e.g., Thrift Savings Plan)	No	No
• Life insurance and annuities	No	No
• Collectibles	No	No
• Assets held within an excepted trust ³	No	No
• Transfer of assets between you, your spouse, and your dependent children	No	No

¹ You do not report the purchase or sale of your personal residence on Schedule B unless you rent it out at any time during the reporting period.

² To be an excepted investment fund (EIF), the asset must be:

- (a) widely held (more than 100 participants),
- (b) independently managed – arranged so that you neither exercise control nor have the ability to exercise control over the financial interests held by the fund, and
- (c) publicly traded (or available) or widely diversified.

There are several types of investment vehicles that are not excepted investment funds, including (but not limited to) managed accounts, investment clubs, trusts, 529 accounts, brokerage accounts, and individual retirement accounts (IRAs). You should note that the individual assets held within these types of investment vehicles may qualify as EIFs if, for example, your IRA holds a publicly-traded mutual fund. If you have questions about whether a particular asset or investment vehicle is an EIF, contact ethics@epa.gov.

³ OGC/Ethics must determine that your trust qualifies as an “excepted trust.” For help, email ethics@epa.gov.

Political Activities and Federal Employees

The Hatch Act, enacted in 1939, was amended in 1993 and 2012. It regulates the political activities of executive branch employees, excluding the President and Vice President. The following table summarizes what political activities EPA employees can and cannot do based on their appointment. Note: Public Health Service officers must adhere to 45 CFR Part 73, Subpart F, which is most similar to the Career SES/ALJ column.

Political activity means an activity “directed toward the success or failure of a political party, a candidate for partisan political office, or a partisan political group.”

Type of Activity	PAS*	Non-Career SES, Schedule C*, Title 42, SL/ST, AD*, GS, Other	Career SES, ALJs
Personal (off premises and off duty)			
Express support for or opposition to a political candidate when off duty	Yes	Yes	Yes
Run as a partisan candidate for nomination or office in a partisan election	No	No	No
Solicit and accept contributions for your campaign in a non-partisan election	Yes	Yes	Yes
Solicit a contribution from a member of your union	N/A	Yes	N/A
Work a phone bank asking individuals to volunteer	Yes	Yes	No
Campaign on behalf of a candidate in a partisan election	Yes	Yes	No
Be active on behalf of a candidate at political rallies or meetings	Yes	Yes	No
Attend political rallies and meetings	Yes	Yes	Yes
Contribute money to political organizations	Yes	Yes	Yes
Work in non-partisan voter registration drives	Yes	Yes	Yes
Work in partisan voter registration drives	Yes	Yes	No
Register and vote	Yes	Yes	Yes
Sign a nominating petition	Yes	Yes	Yes
Distribute campaign material in a partisan election	Yes	Yes	No
Work as an election judge, poll watcher, clerical worker on election day	Yes	Yes	Yes
Drive people to polling station on behalf of a campaign	Yes	Yes	No
Affecting Official Resources			
Use office time for political activity	Yes; IG-No	No	No
Use official space for political activity in general	Yes; IG-No	No	No
Fundraising			
Attend a political fundraiser	Yes	Yes	Yes
Solicit, accept or receive political contributions in general	No	No	No
Solicit or receive a political contribution on government premises	No	No	No
Plan or organize a political fundraiser when off duty	Yes	Yes	No
Sponsor, host, or allow your name as sponsor/host for a political fundraiser	No	No	No
Serve drinks or check coats at a political fundraiser	Yes	Yes	No
Speak at a partisan fundraiser without appealing for money	Yes	Yes	No
Allow only your name to be listed as speaker on fundraising invitation	Yes	Yes	No

*PAS = Political Appointee Confirmed by the Senate; Schedule C = political appointees not confirmed by Senate; AD = Administratively Determined; SES = Senior Executive Service



ETHICS PLEDGE

As a condition, and in consideration, of my employment in the United States Government in an appointee position invested with the public trust, I commit myself to the following obligations, which I understand are binding on me and are enforceable under law:

1. I will not, within 5 years after the termination of my employment as an appointee in any executive agency in which I am appointed to serve, engage in lobbying activities with respect to that agency.
2. If, upon my departure from the Government, I am covered by the post-employment restrictions on communicating with employees of my former executive agency set forth in section 207(c) of title 18, United States Code, I agree that I will abide by those restrictions.
3. In addition to abiding by the limitations of paragraphs 1 and 2, I also agree, upon leaving Government service, not to engage in lobbying activities with respect to any covered executive branch official or non-career Senior Executive Service appointee for the remainder of the Administration.
4. I will not, at any time after the termination of my employment in the United States Government, engage in any activity on behalf of any foreign government or foreign political party which, were it undertaken on January 20, 2017, would require me to register under the Foreign Agents Registration Act of 1938, as amended.
5. I will not accept gifts from registered lobbyists or lobbying organizations for the duration of my service as an appointee.
6. I will not for a period of 2 years from the date of my appointment participate in any particular matter involving specific parties that is directly and substantially related to my former employer or former clients, including regulations and contracts.
7. If I was a registered lobbyist within the 2 years before the date of my appointment, in addition to abiding by the limitations of paragraph 6, I will not for a period of 2 years after the date of my appointment participate in any particular matter on which I lobbied within the 2 years before the date of my appointment or participate in the specific issue area in which that particular matter falls.
8. I agree that any hiring or other employment decisions I make will be based on the candidate's qualifications, competence, and experience.
9. I acknowledge that the Executive Order entitled "Ethics Commitments by Executive Branch Appointees," issued by the President on January 28, 2017, which I have read before signing this document, defines certain terms applicable to the foregoing obligations and sets forth the methods for enforcing them. I expressly accept the provisions of that Executive Order as a part of this agreement and as binding on me. I understand that the obligations of this pledge are in addition to any statutory or other legal restrictions applicable to me by virtue of Government service.

Signature

_____, 20____
Date

Print or type your full name (last, first, middle)

The White House
Office of the Press Secretary
For Immediate Release
January 28, 2017

Executive Order: ETHICS COMMITMENTS BY EXECUTIVE BRANCH APPOINTEES

EXECUTIVE ORDER

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ETHICS COMMITMENTS BY EXECUTIVE BRANCH APPOINTEES

By the authority vested in me as President of the United States by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, and sections 3301 and 7301 of title 5, United States Code, it is hereby ordered as follows:

Section 1. Ethics Pledge. Every appointee in every executive agency appointed on or after January 20, 2017, shall sign, and upon signing shall be contractually committed to, the following pledge upon becoming an appointee:

"As a condition, and in consideration, of my employment in the United States Government in an appointee position invested with the public trust, I commit myself to the following obligations, which I understand are binding on me and are enforceable under law:

"1. I will not, within 5 years after the termination of my employment as an appointee in any executive agency in which I am appointed to serve, engage in lobbying activities with respect to that agency.

"2. If, upon my departure from the Government, I am covered by the post-employment restrictions on communicating with employees of my former executive agency set forth in section 207(c) of title 18, United States Code, I agree that I will abide by those restrictions.

"3. In addition to abiding by the limitations of paragraphs 1 and 2, I also agree, upon leaving Government service, not to engage in lobbying activities with respect to any covered executive branch official or non-career Senior Executive Service appointee for the remainder of the Administration.

"4. I will not, at any time after the termination of my employment in the United States Government, engage in any activity on behalf of any foreign government or foreign political

party which, were it undertaken on January 20, 2017, would require me to register under the Foreign Agents Registration Act of 1938, as amended.

"5. I will not accept gifts from registered lobbyists or lobbying organizations for the duration of my service as an appointee.

"6. I will not for a period of 2 years from the date of my appointment participate in any particular matter involving specific parties that is directly and substantially related to my former employer or former clients, including regulations and contracts.

"7. If I was a registered lobbyist within the 2 years before the date of my appointment, in addition to abiding by the limitations of paragraph 6, I will not for a period of 2 years after the date of my appointment participate in any particular matter on which I lobbied within the 2 years before the date of my appointment or participate in the specific issue area in which that particular matter falls.

"8. I agree that any hiring or other employment decisions I make will be based on the candidate's qualifications, competence, and experience.

"9. I acknowledge that the Executive Order entitled 'Ethics Commitments by Executive Branch Appointees,' issued by the President on January 28, 2017, which I have read before signing this document, defines certain terms applicable to the foregoing obligations and sets forth the methods for enforcing them. I expressly accept the provisions of that Executive Order as a part of this agreement and as binding on me. I understand that the obligations of this pledge are in addition to any statutory or other legal restrictions applicable to me by virtue of Government service."

Sec. 2. Definitions. As used herein and in the pledge set forth in section 1 of this order:

(a) "Administration" means all terms of office of the incumbent President serving at the time of the appointment of an appointee covered by this order.

(b) "Appointee" means every full-time, non-career Presidential or Vice-Presidential appointee, non-career appointee in the Senior Executive Service (or other SES-type system), and appointee to a position that has been excepted from the competitive service by reason of being of a confidential or policymaking character (Schedule C and other positions excepted under comparable criteria) in an executive agency. It does not include any person appointed as a member of the Senior Foreign Service or solely as a uniformed service commissioned officer.

(c) "Covered executive branch official" shall have the definition set forth in the Lobbying Disclosure Act.

(d) "Directly and substantially related to my former employer or former clients" shall mean matters in which the appointee's former employer or a former client is a party or represents a party.

(e) "Executive agency" and "agency" mean "executive agency" as defined in section 105 of title 5, United States Code, except that the terms shall include the Executive Office of the President, the United States Postal Service, and the Postal Regulatory Commission, and excludes the Government Accountability Office. As used in paragraph 1 of the pledge, "executive agency" means the entire agency in which the appointee is appointed to serve, except that:

(1) with respect to those appointees to whom such designations are applicable under section 207(h) of title 18, United States Code, the term means an agency or bureau designated by the Director of the Office of Government Ethics under section 207(h) as a separate department or agency at the time the appointee ceased to serve in that department or agency; and

(2) an appointee who is detailed from one executive agency to another for more than 60 days in any calendar year shall be deemed to be an officer or employee of both agencies during the period such person is detailed.

(f) "Foreign Agents Registration Act of 1938, as amended" means sections 611 through 621 of title 22, United States Code.

(g) "Foreign government" means the "government of a foreign country," as defined in section 1(e) of the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. 611(e).

(h) "Foreign political party" has the same meaning as that term has in section 1(f) of the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. 611(f).

(i) "Former client" is any person for whom the appointee served personally as agent, attorney, or consultant within the 2 years prior to the date of his or her appointment, but excluding instances where the service provided was limited to a speech or similar appearance. It does not include clients of the appointee's former employer to whom the appointee did not personally provide services.

(j) "Former employer" is any person for whom the appointee has within the 2 years prior to the date of his or her appointment served as an employee, officer, director, trustee, or general partner, except that "former employer" does not include any executive agency or other entity of the Federal Government, State or local government, the District of Columbia, Native American tribe, or any United States territory or possession.

(k) "Gift"

(1) shall have the definition set forth in section 2635.203(b) of title 5, Code of Federal Regulations;

(2) shall include gifts that are solicited or accepted indirectly as defined at section 2635.203(f) of title 5, Code of Federal Regulations; and

(3) shall exclude those items excluded by sections 2635.204(b), (c), (e)(1) & (3), (j), (k), and (l) of title 5, Code of Federal Regulations.

(l) "Government official" means any employee of the executive branch.

(m) "Lobbied" shall mean to have acted as a registered lobbyist.

(n) "Lobbying activities" has the same meaning as that term has in the Lobbying Disclosure Act, except that the term does not include communicating or appearing with regard to: a judicial proceeding; a criminal or civil law enforcement inquiry, investigation, or proceeding; or any agency process for rulemaking, adjudication, or licensing, as defined in and governed by the Administrative Procedure Act, as amended, 5 U.S.C. 551 *et seq.*

(o) "Lobbying Disclosure Act" means sections 1601 *et seq.* of title 2, United States Code.

(p) "Lobbyist" shall have the definition set forth in the Lobbying Disclosure Act.

(q) "On behalf of another" means on behalf of a person or entity other than the individual signing the pledge or his or her spouse, child, or parent.

(r) "Particular matter" shall have the same meaning as set forth in section 207 of title 28, United States Code, and section 2635.402(b)(3) of title 5, Code of Federal Regulations.

(s) "Particular matter involving specific parties" shall have the same meaning as set forth in section 2641.201(h) of title 5, Code of Federal Regulations, except that it shall also include any meeting or other communication relating to the performance of one's official duties with a former employer or former client, unless the communication applies to a particular matter of general applicability and participation in the meeting or other event is open to all interested parties.

(t) "Participate" means to participate personally and substantially.

(u) "Pledge" means the ethics pledge set forth in section 1 of this order.

(v) "Post-employment restrictions" shall include the provisions and exceptions in section 207(c) of title 18, United States Code, and the implementing regulations.

(w) "Registered lobbyist or lobbying organization" shall mean a lobbyist or an organization filing a registration pursuant to section 1603(a) of title 2, United States Code, and in the case of an organization filing such a registration, "registered lobbyist" shall include each of the lobbyists identified therein.

(x) Terms that are used herein and in the pledge, and also used in section 207 of title 18, United States Code, shall be given the same meaning as they have in section 207 and any implementing regulations issued or to be issued by the Office of Government Ethics, except to the extent those terms are otherwise defined in this order.

(y) All references to provisions of law and regulations shall refer to such provisions as in effect on January 20, 2017.

Sec. 3. Waiver. (a) The President or his designee may grant to any person a waiver of any restrictions contained in the pledge signed by such person.

(b) A waiver shall take effect when the certification is signed by the President or his designee.

(c) A copy of the waiver certification shall be furnished to the person covered by the waiver and provided to the head of the agency in which that person is or was appointed to serve.

Sec. 4. Administration. (a) The head of every executive agency shall establish for that agency such rules or procedures (conforming as nearly as practicable to the agency's general ethics rules and procedures, including those relating to designated agency ethics officers) as are necessary or appropriate:

(1) to ensure that every appointee in the agency signs the pledge upon assuming the appointed office or otherwise becoming an appointee; and

(2) to ensure compliance with this order within the agency.

(b) With respect to the Executive Office of the President, the duties set forth in section 4(a) shall be the responsibility of the Counsel to the President or such other official or officials to whom the President delegates those duties.

(c) The Director of the Office of Government Ethics shall:

(1) ensure that the pledge and a copy of this Executive Order are made available for use by agencies in fulfilling their duties under section 4(a);

(2) in consultation with the Attorney General or Counsel to the President, when appropriate, assist designated agency ethics officers in providing advice to current or former appointees regarding the application of the pledge; and

(3) adopt such rules or procedures (conforming as nearly as practicable to its generally applicable rules and procedures) as are necessary or appropriate:

(i) to carry out the foregoing responsibilities;

(ii) to apply the lobbyist gift ban set forth in paragraph 5 of the pledge to all executive branch employees;

(iii) to authorize limited exceptions to the lobbyist gift ban for circumstances that do not implicate the purposes of the ban;

(iv) to make clear that no person shall have violated the lobbyist gift ban if the person properly disposes of a gift as provided by section 2635.206 of title 5, Code of Federal Regulations;

(v) to ensure that existing rules and procedures for Government employees engaged in negotiations for future employment with private businesses that are affected by their official actions do not affect the integrity of the Government's programs and operations; and

(vi) to ensure, in consultation with the Director of the Office of Personnel Management, that the requirement set forth in paragraph 8 of the pledge is honored by every employee of the executive branch;

(d) An appointee who has signed the pledge is not required to sign the pledge again upon appointment or detail to a different office, except that a person who has ceased to be an appointee, due to termination of employment in the executive branch or otherwise, shall sign the pledge prior to thereafter assuming office as an appointee.

(e) All pledges signed by appointees, and all waiver certifications with respect thereto, shall be filed with the head of the appointee's agency for permanent retention in the appointee's official personnel folder or equivalent folder.

Sec. 5. Enforcement. (a) The contractual, fiduciary, and ethical commitments in the pledge provided for herein are solely enforceable by the United States by any legally available means, including any or all of the following: debarment proceedings within any affected executive agency or civil judicial proceedings for declaratory, injunctive, or monetary relief.

(b) Any former appointee who is determined, after notice and hearing, by the duly designated authority within any agency, to have violated his or her pledge may be barred from engaging in lobbying activities with respect to that agency for up to 5 years in addition to the 5-year time period covered by the pledge. The head of every executive agency shall, in consultation with the Director of the Office of Government Ethics, establish procedures to implement this subsection, which shall include (but not be limited to) providing for factfinding and investigation of possible violations of this order and for referrals to the Attorney General for his or her consideration pursuant to subsection (c).

(c) The Attorney General or his or her designee is authorized:

(1) upon receiving information regarding the possible breach of any commitment in a signed pledge, to request any appropriate Federal investigative authority to conduct such investigations as may be appropriate; and

(2) upon determining that there is a reasonable basis to believe that a breach of a commitment has occurred or will occur or continue, if not enjoined, to commence a civil action on behalf of the United States against the former officer or employee in any United States District Court with jurisdiction to consider the matter.

(d) In such civil action, the Attorney General or his or her designee is authorized to request any and all relief authorized by law, including but not limited to:

(1) such temporary restraining orders and preliminary and permanent injunctions as may be appropriate to restrain future, recurring, or continuing conduct by the former officer or employee in breach of the commitments in the pledge he or she signed; and

(2) establishment of a constructive trust for the benefit of the United States, requiring an accounting and payment to the United States Treasury of all money and other things of value received by, or payable to, the former officer or employee arising out of any breach or attempted breach of the pledge signed by the former officer or employee.

Sec. 6. General Provisions. (a) This order supersedes Executive Order 13490 of January 21, 2009 (Ethics Commitments by Executive Branch Personnel), and therefore Executive Order 13490 is hereby revoked. No other prior Executive Orders are repealed by this order. To the extent that this order is inconsistent with any provision of any prior Executive Order, this order shall control.

(b) If any provision of this order or the application of such provision is held to be invalid, the remainder of this order and other dissimilar applications of such provision shall not be affected.

(c) The pledge and this order are not intended to, and do not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party (other than by the United States) against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) The definitions set forth in this order are solely applicable to the terms of this order, and are not otherwise intended to impair or affect existing law.

(e) Nothing in this order shall be construed to impair or otherwise affect:

(1) the authority granted by law to an executive department, agency, or the head thereof; or

(2) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(f) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

DONALD J. TRUMP

HATCH ACT RULES**Apply to every employee, all the time**

The [Hatch Act](#) governs political activity (any activity directed toward the success or failure of a partisan candidate, political party or partisan political group). It does not apply to nonpartisan issues or events. This [Hatch Act chart](#) describes how the rules apply to you, depending on your type of appointment.

- All employees may:
 - Express their opinions privately and publicly on political subjects;
 - Be politically active in connection with a question that is not specifically identified with a political party, such as a constitutional amendment, referendum, approval of a municipal ordinance or any other question or issue of a similar character;
 - Participate in the nonpartisan activities of a civic, community, social, labor, or professional organization, or of a similar organization; and
 - Participate fully in public affairs, except as prohibited by other federal law, in a manner that does not compromise their efficiency or integrity as employees or the neutrality, efficiency, or integrity of EPA. See 5 C.F.R. § 734.203, available at [5 C.F.R. Part 734](#).
- The [Office of Special Counsel](#) oversees implementation (and prosecution of) the Hatch Act. It has a general [FAQ on the Hatch Act](#) (most of us are lesser restricted employees), as well as an [FAQ specific to the Hatch Act and social media](#).

For more information on social media and the Hatch Act, visit the [OGC/Ethics website](#).

WHICH LANE ARE YOU IN?	
Official Capacity (on behalf of EPA, as an employee)	Personal Capacity
<p>Generally ...</p> <ul style="list-style-type: none"> Consistent with statutory authority and Agency or office mission and assigned duties. Need supervisory approval to engage in the activity. Cannot be compensated by an outside party. <p>Use of Government Time, Resources and Non-Public Information</p> <ul style="list-style-type: none"> You can use official time on the activity, consistent with supervisory approval. You can use EPA resources including computer, copier, EPA email address or phone number, administrative support. You cannot use non-public information. <p>Identifying Yourself and Disclaimers</p> <ul style="list-style-type: none"> Use your official title. Depending on the level of review, you may need to include a disclaimer. <p>Social Media</p> <p>Relatively few employees are responsible for maintaining or using EPA's official social media posts. See EPA's policies on official use of social media.</p>	<p>Generally ...</p> <ul style="list-style-type: none"> If what you want to do qualifies as an "outside activity" under EPA's supplemental ethics rules, you may need prior written approval from an ethics official. You may not be compensated if the activity relates to official duty. <p>Use of Government Time, Resources and Non-Public Information</p> <ul style="list-style-type: none"> Refrain from engaging in personal activities on EPA time. Do not use your EPA badge, email address or other EPA identifiers when acting in your personal capacity. Personal use of the EPA equipment is permitted only in accordance with EPA's limited personal use policy, which allows for <i>de minimis</i> use, but never for prohibited activities such as charitable fundraising, lobbying, political activity, compensated outside activity or illegal activities. There is no expectation of privacy in the federal workplace or when using EPA equipment or resources. Remember, your alternate work location is considered federal workspace when you are on Flexiplace and the ethics rules apply the same when you work remotely as when you are in the office. Do not use nonpublic information, which is any information gained through EPA employment that you know or should know has not been made available to the general public, is exempt from disclosure, or that has not been authorized for release. You may not take pictures inside federal buildings (including private buildings leased by federal occupants; e.g., EPA Region 10) without the permission of the occupying Agency. 41 C.F.R. § 102-74.420.

WHICH LANE ARE YOU IN?

Official Capacity (on behalf of EPA, as an employee)	Personal Capacity
	<p>Misuse of Position and Representing Back</p> <ul style="list-style-type: none"> • Avoid appearing to misuse your EPA position for your own personal gain or for the gain of others or to create the appearance that the federal government endorses your personal activities. <i>Avoid deliberate use of your EPA position or affiliation to bolster your personal position or to lend it greater or emphasized credence.</i> For example, you could carry a sign at an event that says “I love puppies.” You could even carry a sign that says, “Federal employee loves puppies.” But you should NOT carry a sign that says “EPA employee loves puppies.” • In your personal capacity, you cannot represent the interests of a third party back to the federal government, regardless of whether you are compensated. 18 U.S.C. §§ 203 & 205. For example, you could write a letter to your Senator, expressing your personal opinion about a proposed legislative action, but you could not write and sign a letter on behalf of a third party about the same proposed action. <p>Identifying Yourself and Disclaimers</p> <ul style="list-style-type: none"> • You can reference your official title if it is one of at least three biographical details you provide and you make it clear that you are speaking in your personal capacity, not in your official capacity or on behalf of EPA. You might also need to include a disclaimer. • If you don’t mention your EPA position, you do not need to include a disclaimer. • If it is clear from the language or context of your speaking or writing that you are representing personal rather than Agency views, then you have addressed endorsement concerns, but you

WHICH LANE ARE YOU IN?

Official Capacity (on behalf of EPA, as an employee)	Personal Capacity
	<p>still must be careful not to use your EPA position for private gain. See Misuse of Position, above, and OGE letter 10 x 1.</p> <p>Social Media</p> <ul style="list-style-type: none"> • The ethics rules apply to social media just as they do to other forms of communication. • Because there is no expectation of privacy in the federal workplace or when using EPA equipment or resources, <i>we recommend against using EPA equipment, server, etc. to access personal social media accounts.</i> • Do not use or post nonpublic information in personal social media accounts. • Because you are generally prohibited from taking photos inside federal office space, you, therefore also should not post such photos to your personal social media accounts. • The Office of Government Ethics has a terrific legal advisory on ethics and personal use of social media. <p>Fundraising</p> <ul style="list-style-type: none"> • Don't use your EPA position to further outside fundraising efforts. There are some restrictions when engaged in fundraising, even on personal time. 5 C.F.R. § 2635.808. • You can't ever personally solicit funds from a subordinate or from a "prohibited source," which is any entity or person who is doing business with EPA, seeks to do business with EPA or is regulated by EPA.

From: Munoz, Charles
Location: 4308 WJC-N
Importance: Normal
Subject: Ethics Training with Millan Hupp, Deputy Director for Scheduling and Advance and Sydney Hupp, Special Assistant to the Chief of Staff
Start Date/Time: Thur 3/16/2017 2:00:00 PM
End Date/Time: Thur 3/16/2017 3:00:00 PM

From: Fugh, Justina
Location: 4308 WJC-N
Importance: Normal
Subject: Accepted: Ethics Training with Millan Hupp, Deputy Director for Scheduling and Advance and Sydney Hupp, Special Assistant to the Chief of Staff
Start Date/Time: Thur 3/16/2017 2:00:00 PM
End Date/Time: Thur 3/16/2017 3:00:00 PM

To: Hupp, Sydney[hupp.sydney@epa.gov]
From: Fugh, Justina
Sent: Fri 6/9/2017 9:00:13 PM
Subject: I hear you're resigning on 6/20!

Hi Sydney,

I learned recently that you will be resigning from EPA. We're sorry to see you go! Where are you going (I'm not simply asking out of curiosity. I need to evaluate whether you will have any ethics obligations). Here's what I can tell you so far:

1) **PUBLIC FINANCIAL DISCLOSURE REPORT** – Because you served in an Administratively Determined position for more than 60 calendar days, you are required to complete the new entrant public financial disclosure report. But you will be departing EPA with fewer than 130 days served, so I will try to get a waiver of this requirement for you. If I'm not successful, then you will have to file this report. Fingers crossed!

2) **SEEKING EMPLOYMENT OBLIGATIONS**

•☐☐☐☐☐☐☐☐ **Your ethics obligations began when you start looking for a job.** You can't participate in official matters that will have a direct and predictable effect on the financial interests of any person or entity with whom you are seeking employment.

“Seeking employment” begins when you: directly or indirectly make an unsolicited communication regarding possible employment with any person or entity; engage in negotiations with a view toward reaching an agreement regarding possible employment; receive a response to a job application or employment proposal indicating an interest in employment discussions; or make a response, other than rejection, to an unsolicited communication from any person regarding possible employment with that person.

“Seeking employment” ends when: you, or the prospective employer, reject the possibility of employment and all discussions of possible employment have terminated; or two months have elapsed since you sent an unsolicited resume or employment proposal, and you have not received an interest in employment discussions. 5 CFR 2635.603(b)(2).

•☐☐☐☐☐☐☐☐ **You can't participate in official matters that affect anyone with whom you are seeking employment**

When you are seeking employment, you can't work personally and substantially on any particular matter that affects (directly and predictably) the financial interest of the

prospective employer(s). You have to be careful about particular matters of general applicability as well as particular matters involving specific parties. The interests of a prospective employer are imputed to you for the purposes of the federal criminal conflict of interest statute, 18 USC § 208.

The most common way to resolve conflicts issues is to disqualify – or recuse – yourself from participating in the particular matter. To disqualify from participating in a conflicting matter, you should notify the supervisor who makes assignments to you. Oral notice is sufficient, but written notice is wiser, and you should also notify anyone else who may consult with you on these matters.

The need for ***disqualification begins*** when you agree to discuss the prospect of employment with any person -- contractor, company, firm, or someone affected by your duties -- regardless of who makes the first contact. It is also triggered when you send a targeted resume to any person or entity over which you have responsibility in your official duties.

Disqualification ends when you or the prospective employer reject the possibility of employment and all discussions of employment have terminated. Disqualification will also end if you do not hear from the potential employer for two months after sending out an unsolicited resume. Two months of silence after sending out a resume is deemed rejection.

- **Don't take official records with you**

Official records must remain in the custody of the Agency. Within Agency guidelines, you may be given permission to remove extra copies of records or other work-related, non-record materials. However, copies of records that are classified or otherwise restricted (such as under the Privacy Act or subject to privilege) must be maintained in accordance with Agency requirements. You may remove personal materials, such as family and personal correspondence, but must be careful not to remove any official records. The United States government has specific authority to enforce recovery of any unlawfully removed, altered or destroyed records. Talk to your records officer.

3) POST EMPLOYMENT OBLIGATIONS

You can't represent the interests of another back to the United States government on the same specific party matter that you worked on personally and substantially. Given your work, what this means is that if you were trying to schedule a meeting for the Administrator, you can't leave EPA and now try to get that same meeting scheduled on his calendar on behalf of the new employer. You can get more information about this restriction (which appears at 18 USC 207(a)(1)) by taking the post employment ethics online course at <http://intranet.epa.gov/ogc/ethics/training.htm#leavingfederalservice> or from the internet at <http://www.epa.gov/ogc/LFS/10.html>.

4) **QUESTIONS?** You can always ask us a post employment question, even after you leave federal service. We can be reached at ethics@epa.gov.

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Good luck to you!
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the
zip code) | phone 202-564-1786 | fax 202-564-1772

To: Ex. 6 - Personal Privacy
Cc: Fort, Daniel[Fort.Daniel@epa.gov]
From: Fugh, Justina
Sent: Thur 2/23/2017 9:37:20 PM
Subject: Your ethics obligations for your possible EPA position
Distinctions between Reporting Transactions on the OGE 278 - January 201....docx
Hatch Act chart February 2017.docx

Hi there,

My name is Justina Fugh, and I am the Senior Counsel for Ethics at the US Environmental Protection Agency. I understand that you are being considered for an administratively determined position as the special assistant to the Chief of Staff. Congratulations! In this position, you will be required by the Ethics in Government Act of 1978 to file the Office of Government Ethics Form 278, Public Financial Disclosure Report. My office reviews your information to assess any possible ethics implications. We can ask you to start filling out the report now, but it is officially due no later than 30 days after you start at EPA. That said, until you complete the report, we won't have a handle on your possible conflicts issues and can't write a recusal statement for you, which may affect what you work on initially.

EPA uses an entirely electronic filing system (called INTEGRITY.gov or INTEGRITY), so you will file the form (called the OGE 278e) electronically. You are required by law to complete the form, so please don't disregard this requirement; in fact, failure to complete the form timely can result in a \$200 late filing fee, and may also result in criminal or civil penalties.

There are several important things to know about the OGE-278e: (1) it is a public form (which means that anyone can ask for a copy of your form, but Congress repealed the requirement for public posting to the internet); (2) you have to fill it out every year you are in this position; (3) when you leave the position, you will have to file a termination report; and (4) you will be subject to a late filing fee of \$200 for not filing your report timely, and there are also civil and criminal penalties for failure to file at all or for inaccurate reporting.

THE FINANCIAL DISCLOSURE REPORT, OGE-278e

Later today, Dan Fort (copied here, one of my OGC/Ethics colleagues) will create an account for you in INTEGRITY, which is the electronic filing system operated and secured by the Office of Government Ethics (OGE). You will be assigned a "new entrant" report with the EPA's business address already included. Do not enter your personal home address in that place. Your filer category is "other." For help in INTEGRITY, check out the information on the OGC/Ethics website at <http://intranet.epa.gov/ogc/Integrity/Landingpage.html> .

Once you receive the email from INTEGRITY.gov that will provide you with specific instructions, log into the federal government's max.gov site, the gateway to INTEGRITY. If you don't receive your account notification within three days, then please check your clutter box for messages from INTEGRITY.gov, or contact Dan Fort so that we can follow up.

DEADLINE FOR SUBMITTING THE FORM

INTEGRITY will give you 30 days to complete the form. If you need additional time, you must contact me directly before your due date. There is a limit to how much additional time we can give you before late fees kick in, so please pay attention to this requirement.

HELPFUL HINTS FOR FILLING OUT THE FORM

- This is a wretched and exacting form.
- You will get three different places to report assets: filer's employment-related assets and income, spouse's employment related assets and income, and other assets and income. So you are reporting the assets for yourself, your spouse and your dependent children. We don't really care where you report your assets, just that you do report them all someplace.
- You must include any investment asset that is worth more than \$1000. Include any income from any source that exceeded \$200 during the reporting period (including outside jobs or hobbies, rental income). Include any cash/savings accounts that have more than \$5000.
- Enter each asset separately. Don't lump items together on one line. Be sure to provide the valuation of the asset AND the amount of the income. For assets that aren't mutual funds, you also have to report the type of income (e.g., dividends, cap gains).
- For 401(k) or IRA plans, provide the name of each of the underlying assets. Don't just write "Vanguard IRA" or "mutual fund." You must specify each asset separately and give the valuation and amount of accrued investment income. The definition of "investment income" is NOT tied to what's taxable! You must report accrued income, even if tax deferred or exempt, that you got in the asset over the reporting period (which is last calendar year + this calendar year, up to the date of filing). Look at 1099 forms for the accrued income from investments or review your statements.
- Do not report your federal salary, your spouse's federal salary, or Thrift Savings Plan
- But if you (not your spouse) have any earned income (e.g., outside job, paid pension), you have to report the actual amount of that income.

- But if your spouse works outside of federal service, then include your spouse's employer but not the amount of your spouse's salary. If you are not legally married, do not report your significant other's employer.
- Don't forget to include any life insurance policies (whole life or variable life) as well as the underlying investments, but do not report term life insurance.
- If you have nothing to report in a section, be sure to click the “nothing to report” button

OTHER ETHICS REQUIREMENTS FOR YOU

STOCK ACT

Because you are required to file the form, you are also now subject to the STOCK Act. You are required to report any purchase, sale or exchange of stocks, bonds, commodities futures or other forms of securities when the amount of the transaction exceeds \$1000. Use INTEGRITY to disclose reportable transactions within 30 days of receiving notification of the transaction, but not later than 45 days after the transaction occurs. You will have to report transactions that occur within brokerage accounts, managed accounts, or other investment vehicles that you own or jointly own with your spouse or another person, as well as transactions of your spouse or dependent children. For a comprehensive review of reportable transactions, see EPA Ethics Advisory 2012-03 at http://intranet.epa.gov/ogc/ethics/Ethics_Advisory_2012-03.pdf and our revised chart, also attached.

HATCH ACT

You will be “lesser restricted” under the Hatch Act. Please familiarize yourself with the Hatch Act as it affects you, and from the EPA intranet (inside the firewall), can gain a good overview by reviewing our online training course at <http://intranet.epa.gov/ogcrmo01/ethics.htm> or by referring to our attached handy chart that reminds you of your restrictions.

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CONTACTS

Dan Fort, Rich Lumley, Jeanne Duross or I will be happy to help you with your 278e form. We can be reached at ethics@epa.gov or individually at:

Jeanne Duross, Ethics Attorney, duross.jeanne@epa.gov or 202-564-6595

Daniel Fort, Ethics Officer, fort.daniel@epa.gov or 202-564-2200

Justina Fugh, Senior Counsel for Ethics, fugh.justina@epa.gov or 202-564-1786

Rich Lumley, Ethics Officer, lumley.rich@epa.gov or 202-564-1453

Cheers,

Justina

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North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the
zip code) | phone 202-564-1786 | fax 202-564-1772

Sydney Hupp OA



Certified by: Justina Fugh
Certificate Dated: 03/16/2017
Certificate ID Number: JFUH-AKJJCT
Full Organization: OA

According to the EPA Domino Directory.
Contact your local Help Desk if this
organizational information is not correct.

When to Report Transactions

This table's guidance is effective beginning January 1, 2013 and for informational purposes only. Email ethics@epa.gov for specific questions.

	Periodic Transaction Report	Annual and/or Termination Report
Investment Assets	Report on the OGE 278-T?	Report on the OGE 278?
Transactions of \$1,000 or less		
• Any asset in which the transaction amount is \$1,000 or less regardless of the type of asset or who owns the asset	No	No
Your investment assets (or jointly held)		
• Your stocks	Yes	Yes
• Your bonds (except U.S. Treasury securities)	Yes	Yes
• Your commodity futures	Yes	Yes
• Your other investment securities	Yes	Yes
• Assets listed above in your (joint) brokerage accounts, (joint) managed accounts, IRAs, other retirement accounts, and/or other (joint) investment vehicles	Yes	Yes
Your spouse's investment assets		
• Spouse's stocks	Yes	Yes
• Spouse's bonds (except U.S. Treasury securities)	Yes	Yes
• Spouse's commodity futures	Yes	Yes
• Spouse's other investment securities	Yes	Yes
• Assets listed above in spouse's <u>own</u> brokerage account, managed accounts, IRAs, other retirement accounts, and/or other investment vehicles	Yes	Yes
Your dependent child's investment assets		
• Dependent child's stocks	Yes	Yes
• Dependent child's bonds (except U.S. Treasury securities)	Yes	Yes
• Dependent child's commodity futures	Yes	Yes
• Dependent child's other investment securities	Yes	Yes
• Assets listed above in dependent child's <u>own</u> brokerage account, IRAs, and/or other investment vehicles	Yes	Yes
Other investment assets irrespective of ownership		
• Real Property	No	Yes ¹
• Mutual funds, exchange traded funds, index funds and/or other "excepted investment funds" ²	No	Yes
• Any asset in which the transaction amount is \$1,000 or less	No	No
• Cash accounts (deposits and/or withdrawals)	No	No
• Money market accounts	No	No
• Money market funds	No	No
• Certificates of deposits	No	No
• US Treasury Securities (e.g., T bills, Treasury bonds, U.S. savings bonds)	No	No
• Federal Government Retirement Accounts (e.g., Thrift Savings Plan)	No	No
• Life insurance and annuities	No	No
• Collectibles	No	No
• Assets held within an excepted trust ³	No	No
• Transfer of assets between you, your spouse, and your dependent children	No	No

¹ You do not report the purchase or sale of your personal residence on Schedule B unless you rent it out at any time during the reporting period.

² To be an excepted investment fund (EIF), the asset must be:

- (a) widely held (more than 100 participants),
- (b) independently managed – arranged so that you neither exercise control nor have the ability to exercise control over the financial interests held by the fund, and
- (c) publicly traded (or available) or widely diversified.

There are several types of investment vehicles that are not excepted investment funds, including (but not limited to) managed accounts, investment clubs, trusts, 529 accounts, brokerage accounts, and individual retirement accounts (IRAs). You should note that the individual assets held within these types of investment vehicles may qualify as EIFs if, for example, your IRA holds a publicly-traded mutual fund. If you have questions about whether a particular asset or investment vehicle is an EIF, contact ethics@epa.gov.

³ OGC/Ethics must determine that your trust qualifies as an “excepted trust.” For help, email ethics@epa.gov.

Political Activities and Federal Employees

The Hatch Act, enacted in 1939, was amended in 1993 and 2012. It regulates the political activities of executive branch employees, excluding the President and Vice President. The following table summarizes what political activities EPA employees can and cannot do based on their appointment. Note: Public Health Service officers must adhere to 45 CFR Part 73, Subpart F, which is most similar to the Career SES/ALJ column.

Political activity means an activity “directed toward the success or failure of a political party, a candidate for partisan political office, or a partisan political group.”

Type of Activity	PAS*	Non-Career SES, Schedule C*, Title 42, SL/ST, AD*, GS, Other	Career SES, ALJs
Personal (off premises and off duty)			
Express support for or opposition to a political candidate when off duty	Yes	Yes	Yes
Run as a partisan candidate for nomination or office in a partisan election	No	No	No
Solicit and accept contributions for your campaign in a non-partisan election	Yes	Yes	Yes
Solicit a contribution from a member of your union	N/A	Yes	N/A
Work a phone bank asking individuals to volunteer	Yes	Yes	No
Campaign on behalf of a candidate in a partisan election	Yes	Yes	No
Be active on behalf of a candidate at political rallies or meetings	Yes	Yes	No
Attend political rallies and meetings	Yes	Yes	Yes
Contribute money to political organizations	Yes	Yes	Yes
Work in non-partisan voter registration drives	Yes	Yes	Yes
Work in partisan voter registration drives	Yes	Yes	No
Register and vote	Yes	Yes	Yes
Sign a nominating petition	Yes	Yes	Yes
Distribute campaign material in a partisan election	Yes	Yes	No
Work as an election judge, poll watcher, clerical worker on election day	Yes	Yes	Yes
Drive people to polling station on behalf of a campaign	Yes	Yes	No
Affecting Official Resources			
Use office time for political activity	Yes; IG-No	No	No
Use official space for political activity in general	Yes; IG-No	No	No
Fundraising			
Attend a political fundraiser	Yes	Yes	Yes
Solicit, accept or receive political contributions in general	No	No	No
Solicit or receive a political contribution on government premises	No	No	No
Plan or organize a political fundraiser when off duty	Yes	Yes	No
Sponsor, host, or allow your name as sponsor/host for a political fundraiser	No	No	No
Serve drinks or check coats at a political fundraiser	Yes	Yes	No
Speak at a partisan fundraiser without appealing for money	Yes	Yes	No
Allow only your name to be listed as speaker on fundraising invitation	Yes	Yes	No

*PAS = Political Appointee Confirmed by the Senate; Schedule C = political appointees not confirmed by Senate; AD = Administratively Determined; SES = Senior Executive Service